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ROMAN BAR

DILIGENCE

It is of utmost moment in pleading causes. That a cause is thoroughly understood, is owing to diligence; that we listen to our adversary attentively, and possess ourselves, not only of his thoughts, but even of his every word; that we observe all the motions of his countenance, which generally indicate the working of the mind, is owing to diligence; [but to do this covertly, that he may not seem to derive any advantage to himself, is part of prudence:] that the mind ruminates on the topics of the case, that it insinuates itself thoroughly into the cause, that it fixes itself on it with care and attention, is owing to diligence; that it applies the memory like a light, to all these matters, as well as the tone of voice and power of delivery, is owing to diligence, a single virtue, in which all other virtues are comprehended.

PRUDENCE

A long life and experience in important affairs had taught the Roman Orator to discern by what means the minds of men are to be moved.

Fiery oratory is not to be exerted on trivial subjects, nor when the minds of men are so affected that we can do nothing by eloquence to influence their opinions, lest we be thought to deserve ridicule or dislike, if we either act about trifles or endeavour to pluck up what cannot be moved.

We must take care not to appear to extol the merit and glory of those whom we would wish to be esteemed for their good deeds, too highly.

BEFORE TRIAL

Let us allow plenty of time, and a place free of interruption, to those who consult us. Earnestly exhort the client to state every particular off hand however verbosely, or however far they may wish to go back; for it is a less inconvenience to listen to what is superfluous than to be left ignorant of what is essential.

Frequently the lawyer will find both the evil and the remedy in particulars which to the client appeared, to have no weight on either side of the question.

Nor should a lawyer have so much a confidence in his memory as to think it too great trouble to write down what he hears

Nor should he be content with hearing only once; the client should be required to repeat the same things again and again: not only because some things have escaped his memory at the first recital, especially if he be, as is often the case, illiterate person; but also that we may see whether he tells exactly the same story: for several state what is false, as if they were not stating their case but plead it, address themselves, not as to an advocate, but as to a judge.

We must never therefore place too much reliance on a client, but he must be sifted and cross-examined, and obliged to tell the truth: for as, by physicians, not only apparent diseases are to be cured, but even such as latent are to be discovered, even though the persons who require to be healed conceal them, so an advocate must look for more than is laid before him.

When he has exercised his patience, in listening, he must assume another character, and act the part of the adversary; he must state whatever can be possibly be imagined on the other side, and whatever the nature of the case will allow in such a discussion. The client

must be questioned sharply, and pressed hard; for by searching into every particular, we sometimes discover truth where we least expected to find it.

The best advocate, say the Romans, for learning the merits of a cause is, he that is least credulous: for a client is often ready to promise everything, offering a crowd of witnesses and averring that the adversary himself will not even offer opposition on certain points.

It is therefore necessary to examine all the writings relating to a case: it is not sufficient to inspect them; they must be read through: for frequently they are either not at all such as they were asserted to be, or they contain less than was stated, or they are mixed with matters that may injure the client's cause, or they say too much and lose all credit appearing to be exaggerated.

It is a great service to client, not to beguile him with vain hopes. Nor, on the other side, is a client deserving of the assistance of an advocate, if he does not listen to his advice. A Montreal judge told that when he was a lawyer he had advised a defendant company for whom he had obtained a dismissal of an action to accept a transaction, owing to his lack of assurance in the judgment rendered, though favourable. The company refused, an appeal was taken and the judgment reversed.

The pleader must satisfy all the faculties of his lawyer.

For the eyes and the imagination of the lawyer the following method is not useless.

All exhibits shall be grouped in chronological order. The index of reference (including the list of exhibits) shall dispose in a special column in tabular matter the order of date of all documents of the record.

Letters of parents, husband and wife, etc.

Certain subjects require a peculiar tenderness of management. Thus, the son, who shall apply for the appointment of a curator over his father's property, ought to testify concern at his father's unsoundness of mind; and a father who brings charges, however grievous,

against his son, ought to show that the necessity of doing so is the greatest affliction to him; and this feeling he should exhibit, not in a few words, but through the whole texture of his speech, so that he may appear to speak, not only with his lips, but from the bottom of his heart.

The ears of men are unwilling to hear a case in which, a son, or the advocates of a son, have to plead against a mother. Yet such pleading is sometimes necessary. Two points require particular attention: the first, not to forget the reverence due to parents; the second, to demonstrate most carefully by going far back into causes, that what we have to say against the mother is not only proper to be said but absolutely necessary. In so delicate and difficult cause the first consideration should be what is due to decorum.

A tutor, also, if his pupil make allegations against him, should never manifest towards him resentment of such a nature that traces of affection and sacred regard for the memory of his father may not be apparent through it.

If any point is made against a mother, it is the duty of the son's advocate to make it appear that he urges it, no with his client's consent, but because the interest of his cause compels him. Thus both the son and the advocate may gain praise.

MODESTY and NOBLE ASSURANCE

A reasonable pride of his dignity in the judge's mind requires modesty in the pleader.

As to eloquence, at the same time that the Roman orator allowed a full measure of it to the pleaders on the opposite side, he never claimed in his speeches any immoderate share of it to himself; he says, *If there be any ability in me judges, and I am sensible how little there is, etc., and, The more I feel my inability, the more diligently have I endeavoured to make amends for it by application, etc.*

Even in contending against Cecilius, about the appointment of an accuser of Verres, though it was of great importance which of the two should appear the better qualified for pleading, yet he rather detracted from Cecilius's talent in speaking than assumed any superiority in it to himself, and said that *he had not attained eloquence, but had done everything in his power that he might attain it.*

Let us be content to be praised by others, for it becomes us, as Demosthenes says, to blush even when we hear other men's commendations of ourselves.

Noble Assurance

It is a fault in a pleader to be anxious, and to labour at removing everything that stands in his way; for such solicitude excites distrust in the judge; and frequently arguments, which, if stated off hand, would have removed all doubt, but which are tardily advanced through excessive precaution, lose credit, because the pleader himself seems to think something additional necessary to support what he alleges.

A pleader, therefore, should carry confidence in his manner, and speak as if he had the highest assurance of the success of his cause.

Presumption

Confidence suffers from being thought to partake of presumption.

It is possible to excite hatred or indignation; in regard to which feelings, the influence of the accused contributes to excite ill-reputation hatred, and disrespect for the judge, (if the accused be contumacious, arrogant, or full of assurance,) the judge and jury being sometime, influenced, not only by an act or word, but by look, air, or manner.



WITNESSES

Danger of hurting witnesses.

There are numbers of points in causes that call for circumspection in every part of your speech, that you may not stumble, that you may not fall over anything.

Oftentimes, some witness either does no mischief, or does less, if he not provoked. My client entreats me to unweigh against him, to abuse him, or, finally to plague him with questions; I am not moved; I do not comply, I will not gratify him; yet I get no commendations; for ignorant people can more easily blame what you say injudiciously than praise you for what you discreetly leave unnoticed.

In such a case how much harm may be done, if you offend a witness who is passionate, or one who is a man of sense, or of influential character?

For he has the will to do you mischief from his passion, the power in his reputation: on which account nothing ever appears more ignominious, than when from any observations, or reply or question, of a pleader, such remarks as this follow:

He has ruined—Whom? his adversary?—No truly, but himself and his client.

We must be cautious that the witness may not appear timid, or inconsistent, or foolish, for witnesses are confused, or caught in snares, by the adversary, for when they are caught, they do more harm than they would have done service if they had been firm and resolute,

They should therefore be well exercised before they are brought into court, and tried with various interrogatories, such as are likely to be put by the adversary.

By this means they will either be consistent in their statements, or if they stumble at all, will be set upon their feet again, as it were, by some opportune question from him whom they were brought forward.

If a pleader know that one of his own witnesses is disposed to prejudice the adversary, he should not question

him at once on the point for decision, but proceed to it circuitously so that what the examiner chiefly wants him to say, may appear to be ~~wrong~~ from him.

As to the manner of questioning the witness, the principal point is to know the witness well ; for if he is vain, he may be flattered; if prolix, drawn from the point; a witness by replying freely to everything invalidates his credit.

Questions should be put, as far as possible, in familiar language, that the person under examination, who is very frequently illiterate, may clearly understand, or at least may not pretend that he does not understand ; an artifice which throws no small damp on the spirit of the examiner.

In case of a witness who will not speak the truth unless against his will, the great happiness in the examiner is, to extort from him what he does not wish to say; and this cannot be done otherwise than by questions that seem wide of the matter in hand; for to these he will give such answers as he thinks will not hurt his party ; and then from various particulars which he may confess, he will be reduced to the inability of denying what he does not wish to acknowledge. For as in a set speech, we commonly collect detached arguments, which, taken singly, seem to bear but lightly on the accused, but by the combination of which we succeed in proving the charge, so a witness of this kind must be questioned on many points regarding antecedent and subsequent circumstances, and concerning places, times, persons and other subjects; so that he may be brought to give some answer, after which he must either acknowledge what we wish, or contradict what he himself has said.

If we do not succeed in that object, it will then be manifest that he is unwilling to speak; and he must be led on to other matters, that he may be caught tripping, if possible, on some point, though it be unconnected with the cause; he may also be detained an extraordinary time,

that by saying everything, and more than the case requires, in favour of the accused, he may make himself suspected to the judge; and he will thus do no less damage to the defendant, his friend, than if he had stated the truth against him.

As there is sometimes art in witnesses, in order to gain greater credit when the afterwards speak in a different way, it is wise in a lawyer to dismiss a suspected witness before he does any harm.

We must be on our guard against treachery; for he may be thrown in our way by the opposite party, and, promising everything favorable, give answers of a contrary character, and have the more weight against us when they do not refute what is to our prejudice, but confess the truth of it.

We must inquire, therefore, what motives they appear to have for declaring against our adversary: nor it is sufficient to know that they were his enemies, we must ascertain whether they have ceased to be so; whether they seek reconciliation with him at our expense.

SPEECH AT THE BAR

Oratory precautions are necessary, when a pleader feels necessary to attack a whole class or nation.

Example from Cicero concerning witnesses of a particular race at the time and place of his plea for Flaccus :

What witnesses are they ?

In the first place, I will say that they are of such nation. That is the case of them all.

Not that I for my own part, would be more inclined than others to refuse credit to that nation, for if ever there was any one of our countrymen not averse to that race of men, and proving himself so by zeal and good-will I think that I am that man, and that I was so even more when I had more leisure; but there are in that body many virtuous, many learned, many modest men, and they have not been brought hither to this trial.

There are also men imprudent, illiterate, worthless persons, and those I see here, impelled by various motives. But I say this of their whole race; I allow them learning, I allow them a knowledge of many arts. I do not deny them with in conversation, acuteness of talents, and fluency in speaking; even if they claim praise for other sorts of ability. I will not make any objection; but a scrupulous regard to truth in giving their evidence is not a virtue that that nation has ever cultivated; they are utterly ignorant! what is the meaning of that quality, they know nothing of its authority or its weight.

When they give their evidence, remark with what a countenance, with what a confidence they give it; and then you will become aware how scrupulous they are as to what evidence they give.

They never reply precisely to a question.

They always answer an accuser more than he asks them, they never feel any anxiety to make what they say seem probable to any one; but are solicitous only to get out what they have got to say.

When such a witness comes forward with the desire to injure a man, he thinks it a most shameful thing to be

defeated, to be allowed. That is the contest for which he prepares himself; he cares for nothing beyond. But you, even in private trials about the most trifling matters, carefully weigh the character of a witness; even if you know the person of the man, and his name and his tribe, still you think it right to inquire into his habits,

And when a man of our citizens gives his evidence, how carefully does he restrain himself! how scrupulously does he regulate all his expressions! how fearful is he, and anxious not to say anything covetously, or angrily, not to say one word more or less than is necessary!

Can a judge refuse belief to witnesses, asked Cicero in his plea for Fonteius? He not only can, but he ought, if they are covetous men, or angry men, or conspirators, or men utterly void of religion and conscience. If you think this is the duty of an able and experienced and impartial judge, that he must without the slightest hesitation believe a thing because the witnesses say it; then the Goddess of Safety herself cannot protect the innocence of brave men.

But if, in coming to a decision on such matters, the wisdom of the judge in considering every circumstance, and in weighing each according to its importance, then in truth your part in considering the case is a more important and serious one than mine in stating it. For I have only to question the witness as to each circumstance once, and that, too, briefly, and often indeed I have not to question him at all; lest I should seem to be giving an angry man an opportunity of making a speech, or to be attributing an undue weight to a covetous man. You can revolve the same matter over and over again in your minds, you can give a long consideration to the evidence of one witness, and if we shown an unwillingness to examine any witness, you are bound to consider what has been our reason for keeping silence.

ATTIC STYLE

The barrister of the attic style has a gentile, moderate manner, imitating the usual customs of the Lords of the Privy Council, and using as much as possible the words

preferred by the laws, specially by the most carefully written (the Civil Code, the Criminal Act, the Merchant Shipping Act). Therefore the pleaders and witnesses who are his hearers, even though they themselves have no skill in pleading, still feel confident that they could speak in that manner. For the subtlety of his address appears easy of imitation to a person who ventures on an opinion, but nothing is less easy when he comes to try it. His easy style must seem to range at freedom, not to wander about licentiously. He also guards against appearing to cement his words together : for the hiatus formed by a concourse of open vowels has something soft about it, and indicates a not displeasing negligence, as if the speaker were anxious more about the matter than the manner of his speech (*Là, à Amers* said Mr. Edmond Rousse, Barronier of the Bar of Paris and a member of the French Academy).

There is such a thing as a careful negligence : for as some women are said to be unadorned to whom that very want of ornament is becoming, so this refined sort of oratory is delightful even unadorned. For in each case a result is produced that the thing appears more beautiful, though the case is not apparent.

The language will be pure, in French or English.

Aliud est grammaticè loqui, aliud est Latine loqui. -

The language will be arranged plainly and clearly and great care will be taken to see what is becoming.

The intelligence of the judge requires the perspicuity.

The Lords usually avoid to quote a statute without pointing the year of Our Lord : the Bank Act, 1913 (3-4 Geo. V, c. 9).

The year of the precedent is generally given as explanation of the number of the volume of the Law Reports.

If we say neither less nor more than we ought, or indistinct, what we state will be clear, and intelligible even to the moderately attentive hearer. We must bear in mind, indeed, that the attention of the judge is not always

so much on the alert as to dispel of itself the obscurity of our language, and to throw the light of his intellect on our darkness, but that he is often distracted by a multiplicity of other thoughts, which will prevent him from understanding us, unless what we say be so clear that its sense will strike his mind as the rays of the sun strike the eyes, even though his attention be not immediately fixed upon it.

We must therefore, take care, not merely that he may understand us, but that he may not be able not to understand us. It is for this reason that we often repeat what we fancy that those who are trying the cause may not have sufficiently comprehended : using such phrases as, *That part of our cause, which, through my fault, has been stated but obscurely, etc., on which account I shall have recourse to plainer and more common language* : since when we pretend occasionally, that we have not fully succeeded, the admission is sure to be well received from us.

The greatest care must be taken to avoid faults such as advancing a controverted for an acknowledged fact or introducing any thing incredible. For it is incident to incautious speakers to aggravate a charge when it is still to be proved to dispute about an act when the question is about the agent, to attempt what is impossible; to contradict what is evident, to lose sight of the main point of the cause.

Some pleaders, erring from too the great caution, think that they must reply if not to every word, at least to every thought or insinuation, even the slightest, of their adversary,—a task which is endless and superfluous; for that is the cause that is refuted, and not the pleader.

Most observations at the Bar please better when they appear to be conceived on the moment and not to be brought from home, but to spring from the subject itself as we are discussing it; and hence the common expressions, *I had almost forgotten, It has escaped me, You*

ap-ly remind me, are by no means ill received. A certain negligence consisting in voluntary hiatus produces an agreeable impression (*là, à Ottawa*).

JEST

No one will endure a prosecutor jesting in a cause of a horrible, or a defendant in one of a pitiable nature.

There are some judges also of too grave a disposition to yield willingly to laughter.

It will sometimes occur, too, that reflections which we make on our adversary may apply to the judge, or even to our client.

We must take care, also, that what we say may not appear petulant, insulting, unsuitable to the place and time, or premeditated or brought from our study.

Baillery is indulged injudiciously that applies to many; if, for example, whole nations, or orders, or conditions, or profession be attacked by it.

We should not fancy ourselves obliged to utter a jest whenever one may be uttered.

A very little witness was produced. *May I question him?* Says A.

The judge who presided being in a hurry replied. *Yes, if he is short You shall have no fault to find, says A, for I shall question him very short.*

The judge was shorter than the witness himself. All the laughter was turned upon the judge.

Purity-Perspicuity

In order to speak pure English or French, we must take care not only to use words which nobody can justly find fault and preserve the construction by proper tenses, genders and numbers, so there may be nothing, confused or incongruous, or preposterous. As to the rules for speaking the tongue in its purity, which the teaching giv-

en to children conveys, refined knowledge and method in study, or the habit of daily and domestic conversation cherishes, and books and the reading of the best writers confirm.

Let us pass over that other point, by what means we may succeed in making what we say understood; an object which we shall doubtless by writing good English, adopting words in common use, and such as aptly express what we wish to communicate or explain, not making our sentences too long, avoiding all incoherency of thought, reversion of the order of time, all confusion of persons, all irregularity of arrangement whatever.



FACTUMS

COPY for PRINTER

Use only one side of paper.

Revise before or at least after typing.

The machine should be set for double spacing with liberal margins. Letters or figures should never be written over the originals, either in the copy or the proof: strike the wrong letter or figure, and write it again.

TYPEWRITING

1. As the typewriters cannot perfectly imitate the art of printing, it seems proper to put the signatures in capital letters (instead of small capitals required by the uses of the art of printing).

2. In the address on an envelope, no punctuation is needed at the ends of the lines, as they are sufficiently set off by their position (as in the running heads of books).

3. Commas are needed only where they help to the understanding of the sense. In case of doubt, it is best to use too few rather than too many commas. Such is the spirit of the modern use of the open punctuation (in opposition to the old school of close punctuation).

The Law Reports of the Privy Council and of the Supreme Court of Canada seem to favour the new school. They suppress the comma between the name of a lawyer and his title of K. C. (Mr. Blake K. C.)

Capitals

Modern use tends more and more to avoid beginning of words with capital letter. (The Law Reports write the appellant, the plaintiff, the trial judge, etc., without capitals.) This practice emphasizes the words which are capitalized and gives a better appearance to the printed page.

No capitals are used for avenue, lane, street, etc. (St. James street, 72 Notre Dame street East).

The initial letter of generic or descriptive parts of geographical names should not be capital according to a rule given by the Geographical Board, viz., lake St. Peter, Ottawa river, river St. Lawrence, gulf of St. Lawrence, Hudson bay.

Titles of nobility, courtesy, etc, are capitalized as Chief Justice, Cardinal Bégin, but not necessarily in French (*Mgr l'archevêque de Montréal, le pape Benoit XV*).

Titles of office are capitalized, when immediately preceding or even following a person's name.

(A new school tends to suppress the capitals in the latter case, as we see every morning in the *Montreal Gazette*: Hon. Mr. Patenaude, minister of inland revenue.

Modes of citation

The mode of citation of the volumes of the Law Reports commenting January 1, 1913, is as follows : In the First Series.

[1913] 1 Ch.

[1913] 2 Ch.

In the Second Series

[1913] 1 K. B.

[1913] 2 K. B.

[1913] 3 K. B.

[1913] P. C.

In the Third Series

[1913] A. C.

For the Reports of the Supreme Court of Canada, the London Law Reports use the following mode : 31 Can. S. C. R. 31. As to the Quebec Reports, they generally employ : Q. R. 20 K. B. 20.

Parentheses

They are used very frequently in the judicial proceedings.

They are used to enclose an explanation, definition, reference, translation or other matter not strictly belonging to the sentence.

Examples taken from the London Law Reports:

Appeal from a judgment of the Supreme Court (April 13, 1912) affirming a judgment of Stuart J. (November 1, 1911) and ordering that the respondents recover from the appellant firm a sum of

The Court of Appeal (Vaughan Williams Fletcher Monlton and Farwell L. JJ.) reversed this decision.

The contract provided (clause 11) that, and it empowered the architect (clauses 12 and 15)

He mentioned the company to (among other people) as Mr. X

They came to the conclusion upon the evidence that collusion between the architect and the defendants (the appellants) was established.



FACTUMS

PREAMBLE

In order that we may be listened to in an intelligent manner, we must begin with the circumstances of the case themselves (and principally the *dispositif* of the judgment appealed from).

The opening of a factum is usually derived from the litigant parties concerned.

Points in issue. In Supreme Court and in Review, the assignment of errors is requested only after the narration, but in the Privy Council is followed another method. The readers are invited (as Montreal's visitors from the Mountain's Observatory to see the main geographical points of the whole neighbourhood) to learn and understand most easily what the real points in issue are just before the statement.

The pleaders define and divide the case, and neither perplex the discernment of the Lords of the Privy Council by the confusion, nor their memory by the multitude of the several parts of the case.

Those concisely stated propositions represent the future *judgments* of the Law Reports.

I

STATEMENT

Q. What rules are to be attended to in narration?

A. Since narration is an explanation of facts, and a sort of base and foundation for the establishment of belief, those rules are most especially to be observed in it, which apply also for the most part to the other divisions of speaking.

Brevity is one of the points most frequently praised in narration.

Our narrative will be probable, if the things which are related are consistent with the character of the persons concerned, with the times and places mentioned, if the

cause of every fact and event is stated, if they appear to be proved by witnesses, (thence the importance of referring to the page and even line of the depositions,) — if they are in accordance with the opinions and authority of men, with law, with custom, and with religion,—if the honesty of the narrator is established, his candour, memoir, the uniform truth of his conversation, and the integrity of his life.

Again a narration is agreeable which contains subject calculated to excite admiration, expectation, unlooked for results, sudden feelings of the mind, conversations between people, [however, the Rules of the Privy Council recommend to avoid in the cases (*precis*) long extracts from the record,] grief, anger, fear, joy, desires.

The factum (according to the Rules of the Supreme Court and of the Court of Review) is not any more the mere statement of fact (exhausting the refutation by way of disjunction of the grounds of the adversary as at the time of Patru), but answers perfectly to the secular definition of the French word *le mémoire (un exposé de faits et de moyens*, the word *moyens* being equivalent to the title of the second of the chapters of our factum (brief of argument).

The statement is of the nature of a matter over which the judges are invited to express their opinions. The English Lords in the Law Reports have their opinion reported without reserving under their name the statement which is presented by the Law Reporter. Two advantages flow from that method of the Law Reporter. The reasons for judgment of their lordships obtain an additional prestige of brevity. Further more, the distinction between the fact and their appreciation appears more perspicuously, as the difference between the pedestal and the most important part of the monument of jurisprudence.

It is possible that the statement such as prepared by the judge includes some *Eureka*, but English judges seem to avoid the suspicion of any exuberance of vanity for any discovery (according to an advice of D'Aguesseau).

ASSIGNMENT OF ERRORS

By its aid, the cause is rendered clearer, and the judge more observant and attentive, if he knows exactly on what points in issue the appellant raises contentions contrary to the judgment *a quo*, and on which the appellant will deal in his points for brief of argument.

A proper division of the matter follows nature as a guide, so as to be the greatest aid to the memory, to prevent us from our proposed course in speaking.

Great lawyers very often not only observe faithfully the laws of rhetoric learnt in the course of the classical education preliminary to the study of law, but mention to the judges their intention to follow such rules, and the advantages of their observance, as M. De Martignac in his plea for his former political adversary Prince De Polignac and other ex-ministers of Charles X before the House of French Senate in 1830.)

As much as possible, the partition should not exceed three propositions. Doubtless, if the partition is too multi-tarious, it could escape the recollections of the judge, and perplex his attention; but it is not to be confined, as by a law, to this or that number, when a case may possibly require more.

The assignment of errors is generally indented as a motto.

The partition not only causes what is stated to become clearer, by drawing certain particulars out of the crowd, as it were, and placing them in the sight of the judges, but relieves the attention by fixing a definite termination to certain parts, as distances on a road marked on railway station, appear greatly to diminish the fatigue of travellers.

For it is a gratification to learn the measure of the labour which we have accomplished; and to know how much remains encourages us to proceed with greater spirit to the conclusion: nothing indeed, need seem long when it is understood where the end is.

The assignment of credits ought to be, above all, plain and clear; for what could be more disgraceful than to make that *obscure*, which is adopted for no other purpose than that other parts may not be obscure? and it should also be *brief*, and not loaded with any single useless word; for we must remember that we are saying, but what we are *not* to say.

We must be cautious, too; nothing may be deficient in the concluding testimony.

We must most obligingly seem to treat in the brief of argument, not as *Verbal points*—the order in which we have set them forth.

III

BRIEF OF ARGUMENT

1. Accumulation, or disjunction? We must insist on the strongest of our arguments singly; the weaker must be advanced in a body; for the former kind, which are strong in themselves we must not obscure by surrounding matter, but take care that they may appear exactly as they are; the other sort, which are naturally weak, will support themselves by mutual aid; and, therefore, if they cannot prevail by being strong, they will prevail by being numerous, as the object of all is to establish the same point.

It is a fault for a plaintiff to give a statement of the grounds of the defence by way of accumulation.

2. The arguments must appear eclectic. We must not load a judge with all the arguments that we can invent; for such an accumulation would both tire his patience and excite his mistrust, since he can hardly suppose those proofs sufficiently valid, which we ourselves, who offer them, seem to regard as unsatisfactory. On the other hand; to argue in support of a matter that is clear, is a foolish as to bring a common taper into the brightest sunshine.

For instance it is useless to quote a lot of precedents on a point on which an article of law is perfectly clear.

3. No proofs are stronger than those which have been shown to be certain after having appeared to be doubtful. *You comm. 'ed the murder, for you had your apparel stained with blood.* Here the allegation that his apparel was stained with blood is not so strong an argument against the accused if he admits it, as if he denies it and after, it is proved; for if he admits it, his apparel may have been stained with blood from many causes, but if he denies it, he hinges his cause on that very point, and if he is convicted on that point, he can make no stand on anything that follows; since it will be thought that he would not have had recourse to falsehood to deny the fact, if he had not despaired of justifying himself if he admitted it.

1. Order of arguments.—Disposition must be such as the nature of the cause requires; with the exception that our series must not descend from the strongest to the weakest.

Refutation.—Accumulation or disjunction. —We ought to attack the charges of an accuser in a body, if they are so weak that they may be borne down in a mass, or so annoying that it is not expedient to engage them in detail. Sometimes, if you divide the arguments of the adversary, they will windle away like large rivers, which, if they are divided into rivulets, become fordable in any part.

It is best for the prosecutor, in general, to group arguments, and for the defendant to disperse them.

To refute allegations that are inconsistent requires no art. It is the business of a pleader, however, at times to represent the statements of the adversary in such a way that they may either appear contradictory or incredible or favourable to our side rather than on his own. For some arguments contempt may be at times expressed, as being frivolous; and this affectation of contempt was sometimes carried so far, that formerly

some pleaders trampled with disdain at it were upon that which they were unable to refute by regular argument. It is of importance to notice in what manner the accuser had stated his charges. If he had expressed himself but feebly, his very words may be repeated by ourselves; or, if he has used fierce and violent language, we may reproduce his matter in milder terms, and this we may do with a certain degree of deference to our client.

The *pro Milone* (if reduced under the actual rules of our factums) would easily be analysed as follows.

Statement. — *Clodii consilia, profectus pugna.*

Assignment of errors or points in issue. — *Uter utri insidias fecerit.*

Brief of argument. — *Jure occiditur insidiator* (Can. R. S., 1906, c. 146, arts. 53-54); *Jam vero Clodius*

Miloni insidias struxit:

Nam 1. Causae insidiandi impulcrunt Milonem nullae: Clodium nullae, utilitas odium, violentia, impunitas:

Nam 2. Antecedentia, concomitantia, subsequencia pugnae demonstrant insidias a Clodio factas.

VICES

Vice of passionateness.—No affection of the mind is a greater enemy to reason.

Moderation is better, and sometimes even sufferance. The writings of a pleader must be more perfectly than his speech at the Bar exempt from any trace of that defect.

Vice of pride.—Indeed, a pleader must appear confident in his case, but not to such an extent as to suppose that he would consider the courts lose their prestige of wisdom in the eventuality of an unfavourable judgment. The Lords in the Privy Council seem to give the example of the modesty of the greatest speakers.



TYPEWRITING

Abbreviations.—In the text of the pleadings, let us never use the signs, but always spell out, as: per cent (*pour cent*), inch or inches (*po*). When the word number precedes figures, we may use the contracted forms: No. 1, No. 2, 1 or 12, &c.

In the text of the pleadings, *S* and *P* should be spelled out.

Let us not use the ampersand & for *and*, nor *Ac*, but *et*.

The address of letters of transmittal to the Governor General is as follows:

To: Field-Marshal, His Royal Highness Prince Arthur William Patrick Albert, Duke of Connaught and of the Stratford, K. C., K. T., K. P., &c., &c., &c., Governor General and Commander in Chief of the Dominion of Canada.

Always spell out the months in the text. When preceeding christian name initials, always abbreviate the following otherwise spell out, except Mr., Mssrs., or MM. and M. for monsieur :

Col. for Colonel

Dr. for Doctor

Hon. for Honourable

Mme for Madame

Mlle. for Mademoiselle

Mgr. for Monseigneur

Prof. for Professor

Right Hon. for Right Honourable

Following surname:

Esq. for Esquire. (That word was omitted in the French text in the French forms of the Criminal Code.

Jr. for Junior ; sr. for senior.

Degrees, etc.: B. A., B. Sc., LL. D., M. A., Ph. D., K. C. M. G., C. M. G., G. C. M. G.

Exceptions may be made, in reporting evidence, as to the use of the figures at the beginning of sentences.

Q. 1908 ? Yes, sir.

Q. What was the amount ?

A. \$30, plus \$2.10, for the war tax at seven per cent.

In petitions in France, the words: «respectfully showed» are translated usually by: *À l'honneur d'exposer.*

PUNCTUATION

The period is how often used in the notation of lists, direct and indirect speech, and in the titles of books and papers, and in the titles of chapters and sections, and in the titles of articles in newspapers and magazines, and in the titles of letters and in the titles of the chapters and sections of law officers. In these forms of composition the period is not needed to indicate the end of the sentence.

Parenthesis always enclose remarks, apparently made by the writer of the text. For instance, in reasons for judgment. The plural of the appellant came.

Brackets enclose remarks made by the editor or reporter of that text. For instance, the mention Applause, in the report of the members of Parliament. In English, the parenthesis is universally used to point the names of the judges who composed the Court which delivered a judgment and in French for the name of the county of any corporation.

Single quotes- The single quote-mark is reserved for the quote within a quote. When special attention is invited to any word, it is customary to inclose it in single quote-marks (as we see it the Federal blue books). It is accepted substitute for the old fashion of putting the word in italic or beginning it with a capital. The single quote-mark is of real service when it identifies unmistakably the exact word used by a speaker or writer, but it will prove an irritating precision, when it is repeated too often in subsequent citations of that word.

A comparison of the punctuation of early and late editions in English classics show that the tendency of modern editors is to a more sparing use of points.

The precise rules of older times are now set aside every point that does not really aid the reader to a better understanding of the subject is properly omitted.

COPY FOR PRINTER

Paper selected for copy should be uniform as to size typewritten or at least copy should be written with ink, and on one side of the leaf.

Words in foreign languages, proper names of all kinds, historical or geographical, and little-used terms in science and art should be written with usual distinctness and with the accents clearly marked.

Underscoring for italic, use of capitals should be revised by the author after literary composition, or they are exposed to be inconsistent.

Though some judges allow their secretaries to underscore for italic the texts of laws, as the professors for books of students, it does not seem proper for a pleader in his *lectums*.

There seems no reason to put in italic or capitals the names of the authors. Italic (and not the capitals) seem usual for the names of the parties in the precedents, also for titles of books (except well known review such as the Law Reports), ships, and newspapers.

The signatures of the letters are usually put in small capitals (as in the Quebec Statutes).

Authors who correct proof with a lead pencil are exposed to provoke the making of new errors.

ITALIC

The free use, or even the moderate use, of italic for emphasis in a text is now regarded as an exhibition of bad taste and a needless affront to the intelligence of the reader.

EXCHEQUER COURT

PRINTED PLEADINGS

Every pleading shall be printed on foolscap paper, headed, with an inner margin about three quarters of an inch wide, and an outer margin about two inches wide Rule 61.

In any case which may appear to the Registrar to be one of urgency, he may permit a written copy of a pleading to be filed, upon the party so filing the same giving a written undertaking to file a printed copy within five days thereafter.

The party printing any pleading shall, on demand in writing, furnish to any other party, his attorney or solicitor, any number of copies, not exceeding ten, upon payment of a nominal fee. (Rules 65-66.)

STATEMENT OF CLAIMS

For infringement of patent: (R. S., c. 61, s. 30.) See Form of statement of claim in Audet, p. 294;—Defence under s. 34, *Ibid.*, p. 257.

TYPEWRITING

1. When sovereigns of a country are alluded to incidentally, the name is usually written in full; as George the Fifth (as in the Proclamations, in the *Official Gazette*). The writs of our courts should all avoid to print: George V.

2. Dates at the ends of letters, order of the courts to call the defendants (as absentees) should generally be indented as a paragraph of the text.

3. In contents—as headings (exceeding two lines), what is called a "hanging indention" is used, in which the first line is brought out full, and the succeeding are indented at the beginning; so that the first line is longer than the others, instead of shorter as in the regular paragraph.

4. Titles of books, pictures, or newspapers, etc., when formally given, are quoted; but where the title of a book is well known,—as the *Iliad*, the *Paradise Lost*,—or is abbreviated or is frequently repeated, it is not necessary to use quotation-marks, especially in foot-notes, or where constant reference is made to different works.

5. Exposure.—In record of proceedings, cases, appendices, the copy must be followed *verbatim et literatim*, giving even typographical errors and misspellings. But in books (perhaps also in Law Reports), it seems not glo-

nious for a generation or a country to follow such a servile system of quotation, unless it would be made for the purpose of holding an author up to ridicule (As for example, *Mme X a été examinée comme témoin, le témoin dans la cause, le juge sur le banc, the confusion between the plédoier and defense, barbarisms: leur cession, centim. restitué, l'accepter d'un jugement, when a pleader, far from invoking a judgment as a shield, protests against it, faire application for a policy or for a postponement of a case, lois passées en force instead of entrée en vigueur, lois rappelées (abrogées), copress (messageries), jours non juridiques (fériés), contestation au mérite (au fond) enquête et mérite (enquête et plaidoirie) événement (événement), enégistie (enregistre).*

Statements of claims and defences.—Avoid all useless words and signs: (a) The repetition of the conjunction that at the beginning of each paragraph; —(d) the zeros cents: Let us write only \$200, not \$200.00, even in columns of figures, unless in the case of columns there would be any sum with special number of cents; (c) of *the late* after the words widow, or testamentary executor; (d) to use the sempiternal *dit* or *said* for the plaintiff or defendant; (e) of the book and official plan of reference (instead of the cadaster).

Let us indent the conclusions as a summary of chapter or a table of contents.

Let us put the date below the signature (it looks more respectful).

Let the author avoid long paragraphs of over a page, unless subdivided.

Let the plaintiff number the different heads of his conclusions by letters or perhaps better by Roman figures.

Let all the detail of particulars indented on both sides, and look shorter than the ordinary lines.

Let all numbered allegations be spaced, at their end to show a resemblance with the Codes and the Statutes.

Let all the signatures be in capital letters. The legal firms should never write &, but always and, nor X & Co., but always the full names of the partners.

No punctuation should be tolerated at the ends of the style of the cause, nor at the head lines of the title: Statement of claim, no more than at the ends of each line of the signs of the doors of the office. The French and English uses are in perfect harmony on those details.

Notice for the day of trial.

In France, it is considered as a letter in the third person :

M. X. . . . procureur du . . . est prévenu que . . .

Letters to correspondents in France.

It is not indifferent to remark as matter of consideration and delicacy to indent the word : *Monsieur*, further than the beginging of the first paragraph of the letter -- and in official documents to put the quality over the signature (*Le Président, X. . . . , not X. . . . président*).

LETTERS

A carbon copy of each letter is written on coloured paper.

Advantages: they are easily distinguished from the letters themselves; they can easily be separated from them for the purpose of signature ; they can be distinguished very readily in a file of correspondence ; and they exclude the possibility of signing and sending a carbon copy of a letter by mistake.

It is necessary to put the whole address in the letter "The Court House Journal, Montreal, Canada is sufficient. The rest of the details may be on the envelope.

Dates. A comma should be placed between the month and the year. May 24, 1916 (but not in French : *le 24 mai 1916*).

Colon. It is very often employed after the salutation of a letter, Dear Sir : (In French, the comma seems more usual though perhaps less logical, when the letter contains several sentences)

Abbreviations. The French abbreviation D.-M. (docteur-médecin) must not be followed in English (M.-D.).

CAPITALS

The tendency at the present day is to limit so far as possible the number of capitals employed.

When the name of a magazine or newspaper is given in the text, the article takes a small letter.

We read in the *Court House Journal* the draft submitted for Rules of Practice in the Court of King's Bench on February 28.

Even when the article forms part of a company, the use of the London Law Reports is to reduce the capital.

In the generality of the Canadian blue books only the first word of the titles of chapters is begun with a capital : that is also the method adopted in catalogues by the American Library Association.

In a title consisting of separate words used with a name, both words in the title begin with capital : Major General Sir Sam Hughes, Chief Justice Lemieux.

In a compound title only one capital is needed, Ex-president Loubet.


When a title used alone is intended as the synonym of a particular person, it is generally capitalized; the Pope, the King-Emperor. In French, the modern use goes further.

It is not unusual to write: *le roi, le pape*.

When *river, valley, city, square, street* is used with a proper noun, the general name is begun with a small letter according to the rules of the Canadian Geographical Board : the Ottawa river, the river St. Lawrence, the lake Ontario, etc. It is absolutely in conformity with the general rules of the French language (with a few exceptions such as *la Mer Noire*)

In salutations of letters, only words referring to persons are capitalized; Dear Friend, My dear Friend, My darling Child,

Von, de, etc., are capitalized only when not preceded by a title or a Christian name: De Lotbinière, Henri Joly de Lotbinière, Van der Linde, Doctor van der Linde. The Continental method of always beginning these prefixes with a small letter is contrary to the established custom of writing English. *a. m.* and *p. m.* are not capitalized in ordinary text matter. In France, those abbreviations are not preferred to the expressions *du matin* and *du soir*.



RULES OF PRACTICE
Draft Submitted.

The following represents the views as one of the judges in appeal.

1. Instead of printed factums, the parties may submit the appeal upon a stated case produced within the delay allowed for filing an appellant's factum, and with or without further printed argument.

2. The title of the case shall appear at the commencement of appendix, but is not to be printed at the head of the pleadings or depositions afterwards, unless special circumstances justify a different course, such as the case of evidence having been introduced from another record.

Stenographers' certificates at the end of depositions are not to be printed.

Depositions shall be printed in the order of time in which the testimony was given by the witnesses in the court of first instance.

Where testimony is printed, there shall be a head line on each page, giving name of witness mentioning at whose instance rendered, and showing if evidence be in chief or cross examination or re-examination, as the case may be.

In every case in which there are more than one exhibit or more than one deposition to be printed, there shall be an index (printed at the commencement of the appellant's factum if the appendix be bound together or at the commencement of the appendix, if the factum and appendix be not bound together) which shall indicate the page on which each document commences and give the description and date of each exhibit or extract printed.

5. The title of the cause in appeal shall give the name of the appellant at the head of the name of the parties.

6. In addition to necessary recital of the facts, the factum shall consist, as far as the nature of the case admits of it, of concisely stated propositions, supported by citation of the authorities and profs relied on, but extracts of testimony are not to be reproduced.

7. Upon summary application to a judge in chambers, the printing of matter not affecting the questions to be decided in appeal, but which a party would of her wise be required by the rules to print, may be dispensed with. Matter not affecting the decision of the appeal, which has been printed, will not be included in taxation of costs except by order of a judge on petition duly served on the opposite party or upon revision of taxation.

8. The factum, appendix or case shall in each page from forty to forty seven lines of printed in type of pica 12 point of each line containing 31 ems, or inches, exclusive printed figures in the margin.

9. Where the same printed evidence serves upon more than one appeal or more than one issue in appeal, the costs of printing and revision of proofs shall, unless otherwise ordered upon revision or taxation, be divided amongst the appeals or issue, in proportion equal to the numbers of appeals to which is common.

10. When the appeal is confined to one or more incursions in law or to a question not involving issues of fact dependent upon the testimony of witnesses, such pleading, or documents only relate to the issues to be decided shall be printed.

11. The cost of any printing found not to be in compliance with the rules of practice shall not form part of the taxed costs, unless otherwise ordered by a judge.

POSTPONEMENT

12. Upon application and upon cause shewn, a judge in chambers may order the making of changes in the entry of a cause on the roll or may postpone the hearing of an appeal to a later term of the Court.

PROCEDURE ON PETITIONS AND INTERLOCUTORY APPEALS

13. The party desiring to submit to the Court in term a petition or motion founded upon special matter of a motion to involve extended argument or requiring reference to pleadings, exhibits or affidavits, shall, before being heard thereon, deposit with the clerk five typewritten office copies of such petition or motion and of the pleadings exhibits or affidavits relied upon. The present rule applies also to appeals from interlocutory judgment when a printed factum not produced.

14. Upon an application for leave for appeal, typewritten copies of pleadings or exhibits certified by the attorney of record may be produced and used instead of formally authenticated copies, saving to the adverse party the right to prove inaccuracy thereof.

15. Upon motions or petitions one address of counsel or the attorney for each party only, all be heard, unless the Court or judges shall direct that other counsel be heard in addition whole saving the right of the party opening to reply.

INTERVENTIONS

16. The delays to contest and join issue upon any intervention or petition in continuance of suit, made in appeal shall be of the same length as the like delays in the Court appealed from. Any proof to be made upon such proceedings shall be affidavit to be filed with the petition or contestation provided that if the Court or a judge consider that witness should be examined or cross examined, the proof shall be proceeded with before a judge in chambers at a time of which the adverse party

shall have received notice not less than three days in advance. After closure of the proof the matter may be set down for hearing before the Court by either party upon giving to the adverse party a notice of less than three days.

17. The prothonotary or clerk of the Court which rendered any judgment appealed from, shall grimp together all exhibits of each party and prepare an index of reference giving in distinct columns the nature or discription of each document, its mark of quotation, if any, and its date.

18. The parties shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of the documents. (Rule 8 of the Colonial Appeal Rules corresponding with the Judicial Committee Rule 17, 1908.)

SEVERE LAW
HOW INVOKED

The subject of this trial which comes before the Court is, What is the pecuniary amount of the damages inflicted on the plaintiff by the gross negligence of the defendant.

Those damages we have taxed; the valuation is yours, the law is that the amends shall be threefold.

As all laws and all legal proceedings which seem at all harsh and severe have originated in the dishonesty and injustice of wicked men, so this form of procedure also has been established within these few years on account of the evil habits and excessive licentiousness of men. As the abuses appeared to concern the public interest, X. who often presided as judge with the greatest equity and wisdom, had regard to this object, and though that there was from rely no need of a system of special penalties for such disorders; for he thought that if any one established a law for matters which were not usual, he seemed not so much to forbid them, as to put people in mind of them. In this times, when our manners had too far degenerated that, he thought it necessary to establish the present law and to affix a severe punishment, in order that audacity might be repressed by fear. And in drafting the law, the word unjustly was not added, He thought that he had put an end to the audacity of wicked men when he had left them no hope of being able to make any defence.

Since, then, you have now heard what this new judicial proceedings, and with what intention it was established, now listen, while I briefly explain to you the case itself, and its attendant circumstances.

FRENCH

The Quebec Statutes may be complimented for their careful reduction of capital letters. The French tongue is not similar to the English uses, though the latter shows a great tendency of assimilation with the French in the way of a reduction. Let us not write *la Cour Supérieure, la Cour de Revision, la Cour du Banc du Roi*, but *la Cour supérieure, la Cour de revision, la Cour du banc du roi*.

IN APPEALS

THE JUDGE A QUO.

The judge who rendered the judgment complained of cannot sit in review (C. P., Art. 1190). A similar rule is written in the Supreme Court Act. (R. S. Can., c. 135. In the Court of King's Bench, no such disposition dispenses the presiding judge in the Crown side to sit in appeal in the same case. But in practice it seems a tradition that the judge who rendered a judgment complained of does not sit in the Court of King's Bench (as if it were forbidden by Art. 3026. R. S. Q.)

TRIAL BETWEEN PARENTS

Cicero, pro Cluentio.

Sassia, the mother of Habitus here, for mother she shall be called by me throughout the case, though she harbours against my client the ruthless animosity of an enemy: she shall be called I repeat, by the name of mother nor shall she ever forfeit in the narrative of her inhuman wickedness the title which is hers by natural right.

It does not escape, indeed that at the trial of a son one should be slow to speak of a mother's infamy, no matter how depraved that mother may be. I should be unfit, gentlemen, to undertake any case, if I felt retained as I am for the defence of human beings imperilled by actions of law to appreciate a principle has its roots deep in the feelings common to humanity and in the order of Nature herself I am well aware that men should keep silence concerning outrageous conduct on the part of parents: they may and should even endure it with resignation: but I am of opinion that we should endure only where possible and only where possible hold our peace. Cluentius has never been in all his days seen any adversity, has never been put in peril of his life, has never feared any form of ill, except where his mother was the bottom of the whole business: yet, on this occasion he should say nothing at all about his wrongs, allowing the veil of reticence, if not of oblivion, to cover them, did not the issues of this case make it quite impossible for him to be altogether silent on the subject.

His mother exults in the defendant's unkempt appearance, and in the garb of mourning that he wears. If you do not in the course of the trial plainly perceive all this, you will be free to believe that I am want only attacking her: but if her enormities are clearly proved, you will have to pardon Cluentius for allowing me to speak as I am doing as you will have to refuse to pardon me, if I were to hold my peace.

PRETERITION

My worthy and eloquent friend Titus Accius stakes his case upon the argument that every law is binding on every citizen ; and you give him a silent and attentive hearing, as you are in duty bound to do. Aulus Cluentius though he is a Roman Knight makes his defence under a statute to which only senators and those who held office are amenable : he will not allow me to enter a protest, and so entrench the artillery of my defence in the citadel of law.

If he wins his case—and our confidence in your justice makes us feel certain that he will—the unanimous conclusion will be in accordance with the facts. Men will make up their minds in view of the line of defence which has been followed that it is his own spileless character that has prevailed, and that he has derived no protection from the letter of the statute, on which he declined to found.

Here there is a point which I already said concerns myself,—a duty which I have to perform to the people of Rome, seeing that my professional position requires me to devote my best consideration and endeavours to defending individuals from the peril of actions at law. I see how powerful, how dangerous, how unlimited in jurisdiction at the tribunal which the prosecutors are seeking to set up an endeavour to extend to the general public a statute which was directed against the order to which we senators belong. The words of this statute are, "Whoever shall have conspired"—and you see how comprehensive that is; "shall have combined"—equally vague and indefinite; "shall have conspired"—this indeed is not only indefinite, but mysterious and unintelligible as well, "or shall have given false evidence", no Roman commoner ever stood up in the witness-box, but must face this risk, if Accius is allowed to have his way. As to the future, I make bold to say that no one will ever go into the witness-box again, if the commons of Rome are to be exposed to the jurisdiction of this court, but I promise each and all who may possibly get into trouble under this statute, without being

really amenable to it, that if they care to retain my services, I shall rest their defence on the protection the law affords; and that I shall have no difficulty whatever in this or in any similar court, in making good my case availing myself to the full of the technical defence which I am on this occasion interdicted from employing by one whose wishes I am bound to respect.



MODERATION

From the plea *pro Tullio*

When it was a dispute about money matters, it appeared foreign to my character to say anything of the reputation of our adversary, not because the cause did not open the door to such statement. What is my conduct then ? Although the cause does require it, still, unless when he absolutely compels me against my will, I am not inclined to condescend to speak ill of him.

Now that I am speaking under compulsion, if I say anything strong, still I will do even that with decency and moderation.

And only such a way that, as he could not consider me as hostile to him at the former trial, so he may now know that I am a faithful and trustworthy friend of my to my client.



DUTIES of a MAGISTRATE

He must devote all his thought, care, and meditation to securing the praise of all men in all quarters. If his rank in life was in a moderate position for talk and discussion about him, nothing extraordinary, nothing beyond the common conduct of other men would be required of him; but now, by reason of the splendour and importance of the circumstances in which he is placed unless he secures the highest possible praise, he seems scarcely in a position to escape extreme censure. Such is his position, that while all good men look with favour on him they at the same time require and expect from him all imaginable diligence and virtue; but all the unprincipled seem to be contented with the smallest pretext for censuring him.

He must not regard only the opinions and judgments of men who are now living but also of those who will live hereafter, though indeed their judgment will be more just, as being free from all detraction and malevolence.

As good poets and careful actors are accustomed to do, so a judge at the end of his legal career, should be especially careful, that his term of office may, like the third act of a play, appear to be the most highly-finished and ornate of the whole life. He must recollect what he owes to the high opinions of mankind to such exalted honour.

He will wish to be both called and thought the father of the pleaders (according to the direction of Montesquieu presiding the opening of the courts at Bordeaux).

Anger, even in our private and daily life, the fault of an unsteady and weak mind; but nothing is so unseemly as to unite the acerbity of nature's ill-temper to supreme power.

Cicero : Letter to his Brother Quintus.

COURT of REVIEW

FACTUMS

The new rules of the Court of Review in force since already several months did not produce so far their complete benefit (as they do since 1907 to the Supreme Court of Canada). The judges in Review were so far disposed transitorily to be indulgent, feeling that a great number of those factums though filed since the new rules were already drafted before, and at any rate under the influence of the system now revoked.

1. The respondent should never have more or less than two chapters: I Facts and II Brief of argument; the appellant not more nor less than three, the part II being assignment of Errors, and the brief of argument becoming Part III. Nothing precludes: *a*) either party (especially the appellant) to part a preamble showing after the essential paragraph, pointing the designation of the dispositive of the judgment appealed from, two paragraphs to present the actors. The appellant is Oreste, the respondent is Agamemnon;

b) Both parties to codify with arabic figures the facts, assignment of errors, grounds of argument, as in cases, (*les précis*) for the Privy Council, but in our opinion, the enumeration should be pursued throughout the whole factum as in our Codes; in other words, the first paragraph of the brief of argument should not start again by 1, 2, 3, 4. Otherwise there could be confusion between §1 of the statement and §1 of the argument.

The concise statement of facts suppose that the pleaders should not obscure the very beginning by long paragraphs relating the contents of the pleadings which certain the hopes of the evidence before hearing, but present a résumé of the facts proved.

The accumulation is the best policy for a plaintiff, and the disjunction for the defendant.

6. For the typewriting, the Acting Chief Justice is of opinion that the Bar could study the adoption of uniform

made of citation of the different Law Reports. For instance the Law Reports of London and the Supreme Court Reports style the decision of Ottawa as follows 31 Can. S. C. R. 31. whilst the Quebec Reports prefer 31 Supr. C. R. 31.

The same remark on the advantages of uniformity could be extended to the abuse of italics (a needless affront to the intelligence of the judges), of capitals, especially in French (when an attentive reading of the Quebec Statutes and of the Quebec Reports under the correction of Mr. Beauchamp are not useless examples), abbreviations, use of figures, indentions, favour due to the parenthesis (according to the example of the Lords of the Privy Council).

Detail of brevity: The solicitors do not write usually: the Honourable Mr Justice so and so, but simply: X***? The adverbs respectfully submits and confidently concludes are considered useless in factums.

Two differences exist between the Quebec Courts and the Privy Council, in London (and also Ottawa) 1. Counsel leads;—2. The judges deliver their reasons for judgment according to the Imperial order of procedure.

ANNOTATIONS

2017 C. C. - Art., 5988 R. S. Q: The company may on resolution of two thirds of the shareholders present at a meeting specially called for the purpose issue bond or debentures to the amount of two thirds of the total value of the immoveable property

Such bonds or debentures, after their registration in the office or offices of the registration division or division in which the immoveable of the said company are situated which immoveable must be described in a notice to that effect given to the registrar, constitute a privileged claim in favour of the holders thereof against the company, and give a right of preference over all others debts and claims against the company, posterior to the issuing of such bonds or debenture

To secure the payment of the bonds or debentures, the company may, by its duly authorized officers, grant to one or more trustees an hypothec upon the immoveable property of the company, mentioning the issue and the amount of the bonds or debentures secured thereby; and such hypothec shall, when duly registered, be a valid security in favor of the holders of such bonds or debenture, issued before or after the execution of such hypothec notwithstanding article 2017 of the Civil Code.

LAWYER'S DRESS

As to dress, the orator has no peculiar habit, but what he wears is more observed than that of other men; and it should therefore be, like that of all others persons of note, elegant and manly; for the fashions of the gown and the shoes, and the hair, is as reprehensible for too much care as for too great negligence.

The hand is not to be loaded with rings, especially such as do not pass the middle joint. Strict regard to dress can be paid only at the beginning of a speech, for as we proceed, scarcely any sort of gesture is unbecoming, weariness and disorder of dress are regarded without censure.

JUDICIAL CONTEST

In contested causes, the business is of great difficulty; I know not whether it be not the greatest by far of all human efforts, where the abilities of the orator are, by the unlearned estimated according to the result and success: where an adversary presents himself armed at all points, who is to be at once attacked and repelled.

M... P... (A Roman lawyer of old ages) had a natural keenness of discernment, which he heartily improved by art, but he did not long support the fatigue and emulous contention of the forum because he could not submit to the follies and impertinencies of the common people (which we orators are obliged to swallow).

Though a purity of style is certainly a very commendable quality, it is not so much for its intrinsic consequence as because it is frequently neglected. In short it is not so meritorious to speak or native tongue correctly, as it is disgraceful to speak or to write it otherwise; nor it is so much the characteristic of a good orator as of a well-bred citizen.

(*Cicero: Remarks on Eminent Orators*).

ECLECTISM

Let me add, wrote Pliny, what experience, that unerring guide, has taught me; it has frequently been my province to act both as an advocate and a judge.

Upon those occasions I have ever found the judgments of mankind are to be influenced by different modes of application, and that the slightest circumstances frequently produce the most important consequences.

The dispositions and understanding of man vary to such an extent that they seldom agree in their opinions concerning any one point in debate before them or, if they do, it is generally from different motives.

Besides, as every man is naturally partial to his own discoveries, when he hears an argument urged which had previously occurred to himself, he will be sure to embrace it as extremely convincing. The lawyer, therefore should so adapt himself to his audience, as to throw out something which every one of them, in turn, may receive and approve as agreeable to his own particular views. I test every part, I prove every opening; in short to use a vulgar proverb, *I leave no stone unturned.*

And as in agriculture, it is not my vineyards or my woods only, but my fields as well that I look after and cultivate, and (to carry on the metaphor) as I do not content myself with sowing those fields simply with corn or wheat, but sprinkle in barley pulse and the other kinds of grain; so in my pleadings at the bar, I scatter broad cast various argument like so many kinds of seeds in order to reap whatever may happen to come up.

For the disposition of your judges is as hard to fathom as uncertain, and a little to be relied on as that of soils and seasons.

EXCEPTIONS TO 202 C. P. Q.
AS TO GENERAL
AND SPECIAL ISSUE

In any action for any damage or injury sustained by reason of the construction or operation of the railway, the defendants may plead the general issue and may give this Act (Can. R. S., 1906, c. 37) and the Special Act and the special matter in evidence at the trial, and may prove that the said damages or injury alleged were done in pursuance of and by authority of this Act or of that Special Act. (Cf. R. S. Q., 1909, Art. 6642. Cf. the Quebec License Act, Art. 1173 as to the perception of the provincial revenue as to the public officers, Arts. 3384 ff. R. S. R. as to the justices of the peace. 1143 Can. R. S., c. 146.)

FORMS

Forms of proceedings before the Board of Railway Commissioner (MacMurchy and Denison, *the Canadian Railway Act*, p. 67).

Form of notice to expropriations, 691.

Form of warrant to sheriff, 692.

CONSTITUTIONAL LAW

Powers of the legislatures over marriage laws. L. R. [1912] A. C. 27;—[1912] 46 Can. S. C. R. 2;— 6D. L. R. 132;—(1912) L. R. App. Cas. 880;—81 Law Journal, Privy Council. 237; 107 Law Times Reports, 330; 28 Law Times Reports, 580; 11 Eastern Law Reporter, 255;—7 D. L. R. 629.

WITNESSES

AGE AND RELATIONSHIP

The prothonotaries and stenographers are invited by the law C. P 327, 353) to state if not their relationship with the litigant parties, at least their age. That detail is sometimes almost useless in the trial court, the latter not being ignorant of such fact, but the law wishes that detail in case of appeals. Example from the plea *pro Domo*: By whom has been made the consecration of my house during my exile?—

By the brother of my wife, answers Clodius.—Though all the pontiffs are learned, the experience gives always a certain credit. The pontiff chosen by Clodius was the youngest of all.

Relationship, connection by marriage and interest are objections only to the credibility of a witness. (Art. 315 C. P. Q.)

ROMAN ADVOCACY

The cause upon which a judge has already given a decision may sometimes happen to come before him again and he may have to try it again. In such a case it is common to observe that we should not have entered on a discussion of his sentence before any other judge, as it ought to be reversed only by himself, but that certain particulars in the affair were unknown to use, (if the nature of the cause allows us to say so,) or that witness were wanting, or (what must be advanced with great caution and only if nothing else can be urged) that the pleader did not fully discharge their duty.

It is a case of great embarrassment to an advocate, when he has to complain of things that he is ashamed to mention, as corporal dishonour, or other outrages. I say nothing of the possibility of the sufferer speaking for himself, for what else would become him but to groan and weep leaving the judge rather to divine his grief than to hear it stated? But the advocate will also have to exhibit similar feelings: since this kind of injury causes more injury to those who endure it than to those who inflict it.

INFLUENCE of PUBLICITY

(Extract from the plea *pro rege Dejotaro*)

In all causes of more than ordinary importance, O Caius Caesar, I am accustomed, at the beginning of my speech, to be more vehemently affected than either common custom or my own age appears to require.

I am affected by the unusual circumstances of the trial in this place; because I am pleading so important a cause within the walls of a private house; I am pleading it out of the hearing of any court or body of auditors; which are a great support and great encouragement to an orator. I rest on nothing but your eyes, your person and countenance; I behold you alone, the whole of my speech is necessarily confined to you alone. And if those considerations are very important as regards my hope of establishing the truths, they for all that are impediments of the energy of my mind, and to the proper enthusiasm and ardor of speaking.

For, if, O Caius Caesar, I were pleading this cause in the forum, still having you for my auditor and my judge with what great cheerfulness would the concourse of the Roman people inspire me; For what citizen would do otherwise that favour that king, the whole of whose life he would recollect had been spent in the wars of the Roman people? I would be beholding the senate-house, I would be surveying the forum, I should call the heaven above me itself to witness; and so, while calling to mind the kindness of the immortal gods and of the Roman people and of the Senate to King Dejotarus, it would be impossible for me to be at a loss for topics or arguments for my speech. But since the walls of a house narrow all these topics, and since the pleading of the cause is greatly crippled by the place, it behooves you, O Caesar, who have yourself often pleaded for many defendants, to consider within yourself what my feelings must be, so that your justice and also your careful attention in listening to me may the more easily lessen my natural agitation and anxiety.

COURTESY OF THE LORDS

From the Law Reports *passim*:

For the Bar: We received from the counsels on both sides all the possible assistance.

For the readers of the Reports: They often promise to be short before starting the statement in conformity with the teaching of the Greek rhetors to the Roman Orator.

For each other: I have had the advantage and the pleasure of reading the notes of my honourable friend in the woolsack. I concur.

For the inferior courts: We are anxious to encourage colonies in the greatest confidence in the courts of their countries in the administration of their Laws. (See the closing remarks of the Lord Chancellor *re C. P. R. v. Fréchette*.) The Lords seem anxious to be faithful to the maxim of Titus: *Oportet neminem discedere tristem a principe*.

ANTEDILUVION CITATIONS

The Revised Statutes wish that all references to be made to laws contained in the codification be given by using the figures of the articles of the last revision. (R. S. Q., art. 7321 rather than 9 Ed. VII, c. 66, art. 1, Workmen's Compensation Act.)

OFFICIAL QUALITY

The Law Reports seem to favour the style of causes in preferring the designation: The Attorney General of Quebec, of Canada etc., rather than the useless display of the names of the persons holding the office.

TYPEWRITING

The figures of dollars with no cents must be followed by a period. When dividing dollars and cents at the end of a line, don't keep the point with the dollars. Cents are decimal fractions of dollars, and the point belongs with them, and has no connection whatever with the dollars. (TEALL (1912); *Punctuation*.)

Indention fort inserts.—The modern method of treating a short extract in the type of the text is to narrow the measure by indenting it lightly on each side in every line as we see in the editorials of our Montreal newspaper). So treated, the quotation-marks may be omitted at the beginning and the end of paragraphs; the change of indention should be enough to denote quoted matter.

If the extract exceed two facing pages, the distinction made by special indention would not be perceptible. Under ordinary conditions, extracts, letters and documents that make more than two pages are most pleasing to author and reader in the appendix. (In the cases [*précis*] for the Privy Council, numerous extracts of laws, codes, statutes are put in a special and sometimes joint appendix before the record of proceedings,—followed, when necessary, by a Book of Plans.)

The quotations in the Privy Council bear generally marks of quotation not only at the beginning of every paragraph, but even at every line.

Another method of presenting the extract is to indent it two or spaces at the left, in the style of motto indention, making all lines of full width at the right.

A document in the text is made distinguishable and more impressive by setting in the type one size smaller than the text type (as in the *Quebec Law Reports* and as it could be obtained with the Hammon type-writer).

Paragraph indention—Some authors—but probably

without any chance of success—claim that the first line of any new chapter, even when that line does not begin with a large initial letter would not need any indentation: the blank line above print would be sufficient indication of a change in subject-matter.

No paragraph indention would be needed also for any first line following the white line usually put at the end of an extract or insert.

In drafting copy for advertisement, the regular paragraph indention should never be used for a few lines of text in any form of displayed composition.



ANNOTATIONS

Civil Code, Art. 155. As to alimony, see Criminal Code Can., R. S., 1906, c. 116, ss. 241-242.

C. C., Art. 249. Deposits may be received by the banks up to \$500 from minors, etc. under the Bank Act, 1913 (3-4 Geo. V, c. 9, s. 95).

Civil Code, arts. 589-591. — (Unclaimed goods); Can., R. S., 1906, c. 113, ss. 732-747-756;— R. S. Q., 7306, 7316, 7317. — Post Office Act (Can., R. S., 1906, c. 66), s. 35;— at the Police Court, R. S. Q., s. 3389;— for animals, R. S. Q., s. 7309-7315; For unclaimed goods in the railways; Can., R. S. 1906, c. 37, s. 346 ff; R. S. 2., s. 6613 ff;— Sale of goods unclaimed by the Customs after eighteen months of non payments of dues. Can R. S. C. 1906, c. 48, s. 142-145; F. G.

Unclaimed dividends in the hands of the liquidators of companies. Can., R. S. 1906, c. 111, s. 137 ff; R. S. Q., ss. 6137-6141.

C. C., art. 1161. See Currency Act, 1910 (9-10 Ed. VII, c. 11); R. S., 1909, ss. 1486—1491.

C. C. 1585 For certain sales without any previous judgment, the goods of an accountant indebted to the Crown. R. S. 1909, ss. 841 ff., the goods for freight unpaid to railway companies, Can. R. S., 1906, c. 37.

C. C. art. 1671.— Claim for wages of seamen, Can., R. S. 1906, c. 113, ss. 152 ff. and 326 ff.

1672.— Can., R. S., 1906, c. 113, ss. 961—967, and the Water Carriers' Act, 1910 (9—10 Ed. VII, c. 66).

1697. For workmen's wages, Can., R. S., 1906, c. 961 97, 78;— R. S. Q., 2489 and 2521.

1834 C. C.— Notice of winding up of companies to the prothonotary, the registrar and in the *Quebec Gazette*.

1891 C. C. See Quebec Companies Act, R. S. Q., s. 6002 ff;— Can., R. S., 1906, cc. 79 and 141.

Art. 2098. For transmission of shares in bank by death marriage or insolvency. See the Bank Act, 1913 (3-4 Geo. V, s. 47).

2263 CC. Short prescription in favor of railways, R. S. Q., s. 6642; for workmen's claims for compensation, R. S. Q., s. 7348.

SHIPPING LAWS

C. C. art. 2353. See Can., R. S., 1906, c. 113.

1. As to registration of ship ss. 3-72.
2. Sections 126, 326.

- 3. — 326, 381.
- 4. — 732-832.
- 5. — 703, 732.
- 6. — 812-930.
- 7. For liability of the water carriers, Can. R. S. 1906, ss. 961-967; and the Water Carriers' Act, 1910 (9-10 Ed. VII, c. 61)
- 8. Can., R. S., 1906, c. 113, ss. 912-930.
Art. 2376 C.C.—Can., R. S. 1906, c. 113, art. 40.
Art. 2376a Ibidem, section 41
Art. 2376b Ibidem, section 43.
Art. 2377. Ibid., s. 44.
237a Ibid., s. 45
2378. Ibid., ss. 46-49.
2379. — s. 57.
2380. — s. 62,
2881. — ss. 55, 56, 57,
2382. — s. 60. Life Insurance.

See the Insurance Art, 1913 (3-4 Geo. V, c. 32); —

Section 95 as to form of policy to be approved, the right of the insured to thirty days of grace for payment of premiums, incontestability after two years, policy and endorsement to be entire contracts, proviso as to age understated, lapsed policies, loan on policy, table of surrender and loan values, table of instalments and renewal of policy.

DRAFT OF LAW respecting the civil status registries and the creation of a provincial office for their keeping.

His Majesty, upon the advice and with the consent of the Legislative Council and the Legislative Assembly of Quebec doth enact the following:

Article 43 of the Civil Code is replaced by the following:

The civil status registries are supplied by the Registrar of the Province.

The double register mentioned in Article 49 of the Civil Code is the property of the parish or the church to which belonged the clergyman at the date of delivery of the registry by the Registrar of the Province.

Note.—See Gasparri on *Marriage*, II, No. 1050, page 215; Revised Laws of Manitoba of 1902, ch. 178. sec. 14.

ACTS OF BIRTHS

Article 54 of the Civil Code is replaced by the following:

Act of birth set forth the day, the place of the child's birth, that of its baptism, if there be such, its sex and the name which are given to it, the Christian names, surnames, profession and place of residence of its father and mother as well as of its sponsors, if any there be. They also set forth, in so far as it can be done, *the father's and the mother's place of birth*

In Scotland, record is also made of the number of children previously born, as well as of the age of their father and mother.

THE RECOGNITION OF LEGITIMATED CHILDREN

Article 56 of the Civil Code is replaced by adding the following words: Civil status officers shall receive acts of voluntary acknowledgement of natural children in the case where these are legitimated through the subsequent marriage of their father and mother. In none of these cases will it be possible to incorporate these legitimation acts with the act regarding the celebration of the marriage of father and mother. These acts set forth the name of the child according to the designation made in the act of birth or in that of baptism, if any there be, as well as its age and the place of similar acts previously made; and in addition, the christian names, surnames, profession, and place of residence, and in so far as can be done, the father and mother's place of birth. These acts may be received even after the death of the children thus recognized, when they have left legitimate issue.

Note—Q. R. 24 S. C. 21.

ACTS RESPECTING THE CELEBRATION OF MARRIAGE

The article 65 of the Civil Code is replaced by the following:

This act sets forth:

1 The day of the marriage celebration:

2 The christian names, surnames, profession, place of residence, *age*, and in so far as can be done, the *place of birth of the consorts* with the Christian names and surnames of previous consorts, if they are widowed, or the mention that they are single, and in addition to this, the Christian names, surnames, profession and place of residence of the consorts' father and mother;

3 The christian names, surnames and place of residence of the witnesses, and if they are related or connected, by marriage, on what side and to what degree.

4 If the parties are married after the publication of the bans, or with dispensation or license;

5. If there has not been any opposition or whether main levée has been granted thereof or not;

6. If it is made with the consent of the father and mother, tutor or curator upon the advice of the family council, in the cases where such is required. The consort must declare to the civil status officer and the officer make note of the declaration of the consort in the said act, whether or not they have any matrimonial conventions, and if such be the case, the name of notary that has registered the same, and in so far as can be done, the said notary's place of residence; failing which, it will not be possible to oppose derogations from the common right with regard to third parties who being unaware the act of these matrimonial conventions shall have contracted with the consorts.

ACTS OF BURIAL

Article 67 of the Civil Code is replaced by the following:
The burial act sets forth;

1. The day of its occurrence, the date and place of the death;

2. The christian name, surnames, place of residence and profession of the deceased, his age and place of birth;

3. The christian names, surnames, profession of the father and mothers of the deceased;

4. The christian names and surnames of her or his consort, or mention that the deceased was single;

5. The christian names, surnames, profession and place

of residence of the witnesses, if these particulars are unknown, a note to this effect must be included in the act itself.

This act is signed in both registries by the person who was charged of the burial as well as by two of the nearest relatives or friends who have attended the same; with regards to those who are unable to write their own signature, a declaration to this effect must accompany the act.

In Portugal, the burial act states whether or not the deceased has left a will and in case he has, the name of the person having possession of it or with whom it has been left.

QUEBEC SOMERSET HOUSE

CENTRALIZATION in the Department of the Provincial Secretary.

Article 1:

Article 787 of the R. S. Q. is replaced by the following:

All registries of births, marriages, deaths and burials to be returned after the present Act goes into effect, by to the prothonotaries or clerks of the Courts under the provisions of Art. 47 of the Civil Code shall be transmitted without delay by the said prothonotaries or clerks of the Court to the Registrar of the Province.

Upon the reception of these registries, the Registrar shall as soon as possible, make a note of all the dates with regards to the recording of children, marriages and death contain therein on the margin of the act of birth of the persons concerned in the other registries which he holds.

Article 2.

Article 788 of the Revised Statutes of the Province of Quebec is replaced by the following:

An annual and decennial index shall be compiled of all the birth, marriage and burial acts that have been reported to the Provincial Registrar. Copies of these indices shall be placed with the prothonotary of the Superior Court in districts to be determined by the Lieut.-Governor in Council. All the prothonotaries of the province drawing a fixed salary, shall in six months from the pre-

sent Act forward to the Department of the Secretary of this province, all the civil status registries actually in their possession.

Prothonotaries who are paid through stamps shall make a parties' return within six months from the day in which they shall have been granted an indemnity to be determined through a valuation made by the Assistant-Attorney-General, assisted by two other commissioners that shall be appointed for this purpose by the Lieut.-Governor in Council.

DRAFT of treaty between the provinces and the Dominion to ensure the mutual exchange of acts respecting civil status

The Government of the Provinces of the Dominion desirous of making sure of the mutual exchange of acts respecting civil status and of their dependents are agreed upon the following: Article 1.—Each of the contracting Governments pledges to transmit free of charge, to that of the province, from the place of residence or the locality of the persons concerned, all the duly legalised returns of act of birth, of recognition of children, of marriage, and of burial acts drawn upon their own territory and concerning the persons residing or originating from that other contracting part according to information supplied to the local authorities of the province, where such acts have been drawn up.

2.—The demand of civil status acts by any particular individus wheresoever shall remain subjects to the payment of r ghts exigible in each of the respective provinces. Article 3. — The present convention will take effect on the first of January 1918. In testimony of which the undersigned Attorneys General of the provinces of the Dominion of Canada have signed the presen^t declaration and have affixee their selis thereon.

Given at Quebec in nine copies this 30th of June, 1907.

MODESTY

Though to boast is unbecoming, yet to express confidence in oneself is sometimes allowable : for who would blamed such remarks as these of Pope Benedict the Fourteenth in the Preamble of His decree against the Secret Marriage (1741). As you know, I had occasion through the exercise during thirty years of a function of secretary of such Congregation to acquire a good deal of experience in such branch of Canon Law.

FACTUM

REVISE COPY FOR PRINTER

There are three ways: *to add, to take away, and to alter.*

In regard to what is to be *added* or *taken away*, the decision is easy: but to regulate what is ill-arranged, to give compactness to what is loose, is a twofold task : for we must reject things that had pleased us, and find out others that had escaped us.

An excellent method for correction is to lay by for a time what we have written, so that we may return to it after an interval, as if it were something new to us and written by another, lest our writtings, like new born infants, compel us to fix our affections on them.

There are some that return to whatever they compose as if they presumed it to be incorrect: and, as if nothing could be right that has presented itself right, they think whatever is different from it is better, and find something to correct as often as they take up their manuscript, like surgeons who make incisions even in sound places: and hence it happens that their writings are, so to speak, scarred and bloodless and rendered worse by the remedies applied. Let what write, therefore, sometimes please, or at least content us, that the file may polish our book, and not wear it to nothing.

The style of the lawyer must be *growing grey* with the age. (The contrary defect was the greatest blunder noticed by the Roman Orator in the speeches of his model Hortensius.)

A plain style suits military men and the solicitors of British Empire.

ADVOCACY

Judges listen with unwillingness to a pleader who anticipates their decision.

Time and place require due degree of observation; the time allowed an orator may be limited and to such circumstances his speech must be adapted.

It makes a great difference too, whether we speak in a public or private place, in a foreign city or in our own. Topics of judicial character are conducted in a tone of business and argument.

The observance of the decorum of which we are speaking should be maintained with every more scrupulosity toward those against whom we plead than towards others; for we should undoubtedly make it our care, in every case of accusation, to appear to have engaged in it with reluctance.

Sometimes, it may be proper to spare or deal gently with persons of an inferior condition, especially if they are young. Such moderation Cicero observes in speaking for Cornelius against Atratinus, appearing, not to attack him like an adversary, but almost to admonish him like a father; for he was a youth.

FACTUMS

THEIR IMPORTANCE

In reading, the judgment is applied with more certainty, than when a person is listening to speeches.

Reading is free, and does not escape us with the oral delivery, but allows us to go over the same passages more than once, whether we have any doubt of their meaning, or are desirous to fix them in our memory.

The merits of an excellent factum are often designedly concealed; for the writer frequently prepares his reader to what is to follow, dissembles with him, and states in a first part what is to have full effect at the conclusion,

Hence what is advanced in its proper place often pleases less than it ought, since we are not aware why it is advanced; and all such passages, accordingly ought to be perused again after we have read the whole



ECLECTICISM

Let me add, wrote Pliny, what experience, that unerring guide has taught me; it has frequently been my province to act both as an advocate and a judge.

Upon those occasions, I have ever found the judgments of mankind are to be influenced by different modes of application, and that the slightest circumstance frequently produce the most important consequences.

The dispositions and understandings of men vary to such an extent that they seldom agree in their opinions concerning any one point in debate before them, or, if they do, it is generally from different motives.

Besides, as every man is naturally partial to his own discoveries, when he hears an argument urged which had previously occurred to himself, he will be sure to embrace it as extremely convincing. The lawyer, therefore, should so adapt himself to his audience, as to throw out something which every one of them, in turn, may receive and approve as agreeable to his own particular views. I test every part, I probe every opening; in short, to use a vulgar proverb, *I leave no stone unturned*

And as in agriculture, it is not my vineyards or my woods only, but my fields as well that I look after and cultivate, and (to carry on the metaphor) as I do not content myself with sowing those fields simply with corn or white wheat, but sprinkle in barley, pulse and the other kinds of grain, so in my pleadings at the bar, I scatter broad cast various arguments like so many kinds of seeds in order to reap whatever may happen to come up.

For the disposition of your judges is as hard to fathom as uncertain, and as little to be relied on as that of soils and seasons.

PUBLICITY OF INTERDICTIONS

A very useful suggestion of reform for the protection of commercial credit has been submitted to the Attorney-General.

Actually the judgments pronouncing an interdiction are indexed only in the district where they have been rendered. The other prothonotaries of the province of are not supposed to receive any notice about them as other matters. (27-28 Viet., c. 45.)

However, those judgments may be set upon against the public of the whole province. There is not any central bureau in any department of the provincial executive where these serious modifications of civil status can be found.

Hence the peril for a bank or a merchant to advance goods or cash to an interdict for drunkenness or for prodigality residing in a district other than the place of his interdiction.

The creditor who suspects any such lack of capacity in his borrower or buyer has to verify the complete list of the judicial districts where his customer could have a former domicile and to consult the records of the prothonotaries of those districts. The gravity of the peril of falling into a voidable contract, arises from the circumstances that often, the incapacity of the interdict for drunkenness or for prodigality and even for certain insanity does not appear exteriorly to third parties.

(See Dr. G. Villeneuve : *Les Aliénés devant la Loi*, pp. 101, 104, 109.)

In Switzerland, the interdictions are posted in the Official Gazette.

In France, any judgment in interdiction since 1893 is brought to the knowledge of the clerk of the place of birth of the interdict. Hence, on entering into a contract with an unknown person, it is sufficient to obtain the name of the unknown person and his place of birth; and to write to the clerk of the court of his place of birth.

COMMISSION CLOSED

Province of Quebec)
District de Montreal) IN THE SUPERIOR COURT

Plaintiff;

v.

Defendant

Instructions for the execution of the Commission-
rogatoire issued in this cause

The Commissioner, before executing the annexed Commission, shall take oath before an officer authorized to administer Oath, viz :—

“You swear that you will, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examination and deposition of all and every Witness, Witnesses to be produced and examined by virtue of the Commission hereunto annexed [upon the Interrogatories, hereunto also annexed now produced and left with you]; and that you shall not publish, disclose, nor make known to any person or persons whatsoever (except to the Clerk or Clerks to be by you employed and sworn to secrecy in the execution of the Commission), the contents of all or any of the depositions of the witnesses, or any of them to be taken by you and the other Commissioners, in the said Commission named or any of them, by virtue of the said Commission, until publication shall pass by rule or order of the

“So Help You God !”]

The Commissioner shall then administer to the Clerk or Clerks, appointed by them for the execution of the said Commission, the following Oath, viz :—

“You swear that you will truly, faithfully, and without partiality to any or either of the parties of this cause, take and write down, transcribe and engross, the Depositions of all and every Witness produced before and

For 1. the open commission, the prothonotary strikes the words
put between brackets.

The examination of each witness must be taken in the presence of the Commissioner named in the annexed Commission.

[The several Interrogatories to be put to each Witness after he or she shall have been duly sworn) must be proposed and declared in their regular order, and the answer of the Witness to each interrogatory must be taken down by the Clerk before proposing or making known a second or any further Interrogatory ; and the same method shall be continued the whole examination shall have been closed.

The Commissioner and Clerk having been sworn as hereinbefore directed, begin to execute the Commission : and the Commissioner having before him the Interrogatories, must subscribe his name at the bottom of each schedule of interrogatories]. Then the Commissioner, or his Clerk, (preparatory to the examination of the Witness, draws up the title of the examination, which usually runs thus :—

“Deposition of a Witness (or Depositions of Witnesses,
if more than one are to be examined,) sworn and examined
on the _____ day of _____ in the
year of Our Lord one thousand nine hundred and _____
at the hour of _____ o'clock in the
_____ in the county of _____ in the
by virtue of this Commission issued out of His Majesty's

to us (~~the~~ here must be specified the Commissioner's names, residence and occupations,) directed for the examination of Witnesses in a cause therein pending between

Plaintiff,
and Defendant.—I, the Commissioner acting under the said Commission, and also the Clerks by me employed in taking, writing down, transcribing and engrossing the said deposition, (or Depositions, if more than one Witness are to be examined) having first duly taken the Oaths annexed to the said Commission according to the tenor and effect thereof and as thereby directed "

The commissioner then calls a Witness before him all persons but himself, the Clerk and the witness whom they are going to examine, leave the room. The Commissioner then [takes the schedule of Interrogatories upon which that Witness is to be examined and] after having read to the Witness the title thereof, administers to him or her the following Oath, viz :—

" You swear, that you will true answers make to all such questions as shall be asked of you on these Interrogatories, without favour or affection to either party; and therein you shall speak the truth and nothing but the truth.

"So Help you God !"

The Witness having thus been sworn, the answer given by him or her to each Interrogatory, must be reduced into writing thus :

of in the
(~~the~~ here, besides and after the address of the Witness, must be stated his calling or addition,) a Witness produced, sworn and examined ou the part and behalf of the plaintiff,) deposeth and

saith as follows :—

["To the first Interrogatory this deponent said that, etc.

To the second Interrogatory this deponent saith that, etc."

And so proceed through the rest of the interrogatories When the Witness has answered to all the Interrogatories he must subscribe his name thereto in the presence

of the Acting Commissioner, (or if he cannot write) he must make in lieu of a signature and it must be written down that he declares he cannot write].

When all the depositions shall have been thus taken a list of the Witness examined must be made and must be signed by the Commissioner ; the Commissioner and Clerk must subscribe their names on the last page of each of the depositions ; the list, interrogatories, deposition, instructions, and all writings produced and referred to in the depositions, must be annexed to the Commission the Commissioner must write on the back of the Commission " The return of this Commission appears by certain schedules hereunto annexed " and must thereto subscribe his name :—the whole must be bound up and put under a strong cover ;—the Commissioner must seal the the cover with his seals and must sign his name opposite his seal ;—and the packet must be addressed thus :

" To the

Prothonotary of the Superior Court

Montreal

QUEBEC

CANADA

Upon the cover are also to be written the title of the cause, and this words " a commission for the examination of Witnesses executed and returned by " (~~the~~ here must be named the Commissioner who has executed the same).

The packet, made up and endorsed as before mentioned, must be mailed (registered and post-paid by the Commissioner to the Prothonotary as above stated).

CORONERS

I.—APPOINTMENT AND JURISDICTION

3477. The Lieutenant-Governor in Council may appoint a coroner for district in the Province.

3478. Every coroner shall, before entering into office takes the oaths of allegiance and of office before a commissioner *per dedimus potestatem* or before the prothonotary of the Superior Court for the district for which he is appointed.

A certificate of the taking of such oaths shall be forthwith transmitted, by the coroner who has taken the same, to the office of the clerk of the peace for the district, who shall deposit such certificate in the archives of his office.

3479. Every coroner shall be, *ex officio*, justice of the peace, without any property qualification being required of him; subject to article 3349, he may, so long as he hold office, exercise all the duties, obligations and responsibilities imposed by law upon justices of the peace.

3480. A coroner may, with the consent of the Attorney General choose, from among resident of the district assigned to him, a deputy who shall replace the coroner in the event of absence or illness. The duties of such deputy shall be the same as those impose on the coroner and when a vacancy occurs in the office of coroner, the deputy shall perform the duties of the coroner who appointed him until a new officer has been regularly appointed by the Lieutenant-Gouverneur in Council.

3481. The coroner shall administer to the deputy coroner the same oaths of allegiance and of office as he has himself taken, and a certificate of the taking of such oaths shall be transmitted by the deputy who has taken the same, to the office of the clerk of the peace, who shall deposit it in the archives of his office.

3482. Instead of appointing a deputy, the coroner may, by a document under his own signature, call upon the services of the coroner nearest to the place where the inquest is to be held, and the latter, when so authorized, shall, during the absence or illness of the coroner who appointed him, have equal jurisdiction with such coroner.

The Attorney-General may, at any time, direct a coroner to make an investigation or hold an inquest in another district, and in that case the jurisdiction of the coroner of such other district, and that of his deputy, is suspended in so far as concerns the matter which is the object of such investigation or inquest.

3483. In cases of an exceptional or extraordinary nature where an inquest is held, the coroner may employ a clerk and swear in a sufficient number of constables to maintain order.

II.—INVESTIGATIONS

3484. The coroner may himself investigate the circumstances which preceded or accompanied the death of any person, when he has good reason to believe, through information received or otherwise, that the deceased came

to his death not from natural cause or from mere accident or mischance, but from violence or unfair means, or culpable or negligent conduct of others, under circumstances such as will probably require the holding of a coroner's inquest.

The Attorney General may also, whenever he deems it expedient in the public interest, direct the coroner to make an investigation into the circumstances which have preceded or accompanied the death of any person.

The coroner shall give a burial permit when it appears from his investigation that the deceased came to his death from natural causes or from mere accident or mischance.

3485. The coroner shall have the right to administer an oath to such persons as are, in his opinion, in a position to enlighten him regarding the cause of the death of the deceased.

3486. The coroner shall draw up a summary minute of the information obtained by him through his investigation, and such minute shall be deposited without delay in the office of the clerk of the Crown for the district.

III.—INQUESTS

3487. Whosoever may learn or know that a person has died a violent or sudden death, or a death due to unnatural or unknown causes, which lead to the suspicion that such person came to his death from violence or unfair means, or culpable or negligent conduct of others, shall, as quickly and as inexpensively as possible, within twenty-four hours, give notice of such fact to the coroner of the district, or to his deputy.

It shall be the special duty of the persons living in the vicinity of the place where such death occurred, to give the notice required by this article.

3487a. When a person confined in a penitentiary, prison, house of correction or detention or an asylum, dies, it shall be the duty of the warden, jailer, superintendent or person in charge of such institution to immediately notify the coroner having jurisdiction, giving the details of all the circumstances connected with such death.

3487b. Every person who willfully refuses or neglects to give the notices mentioned in articles 3487 3487a, shall be guilty of an offence and liable to a penalty of not more than \$50 and not less than \$15, with costs, and, in default of payment of the fine and costs, to imprisonment for a period not exceeding two months.

3487c. In the event of any of the cases provided for by articles 3487 and 3487a, or when the coroner after investigation has good reason to believe that the deceased

came to his death under circumstances calling for an inquest by virtue of articles 3487 and 3487a, it shall be the duty of such coroner to summon a jury and hold an inquest.

3487d. Before issuing his warrant to summon a jury, the coroner shall make a declaration in writing and attested on oath, which declaration shall be filed with the report of the inquest, stating that he has been informed by one or more persons, whose names he shall give, and that he has good reason to believe, that the deceased came to his death, not from natural causes or from mere accident or mischance, but from violence or unfair means, or culpable or negligent conduct of others, and that an inquest ought to be held.

Such declaration shall clearly and succinctly set forth the reasons or facts justifying the coroner in proceeding to hold an inquest.

3487e. The Attorney-General may direct the coroner to hold an inquest whenever he deems the same advisable in the public interest.

Before issuing his warrant summoning the jury, the coroner must declare over his signature, that such summons is for an inquest ordered by the Attorney-General, and such declaration shall be annexed to the report of the inquest.

3487f. The jury required to permit of a coroner holding an inquest shall consist of six persons.

3487g. The inquest shall be held, as soon as possible, in the locality, or in the nearest possible place to the locality where the body was found.

However, should circumstances so require, the inquest may be held in another locality, but in that case the special reasons justifying the coroner in following that course must be set forth in the declaration provided for by articles 3487d.

For the purposes of an inquest the coroner shall take possession of the body and of everything that may be useful as evidence.

3487h. Municipalities are vested with all necessary powers for placing any suitable premises (morgue) approved by the Attorney-General, at the disposal of the coroner for inquests, examinations and autopsies which may be ordered.

3487i. When the Attorney-General considers the morgue suitable, an agreement may be made by him with the interested municipality for the payment to the person in charge of such morgue of a fixed salary or of the fees specified in the tariff.

3487j. No coroner shall order an internal or external examination of a body on which an inquest is held unless requested so to do by a majority of the jury, or unless the coroner has made a declaration in writing, which shall be filed with the report of the inquest, stating that such internal or external examination is necessary to ascertain whether the death of the deceased is really the result of a crime.

3487k. Whenever a chemical analysis is deemed necessary by the jury and coroner, the latter shall notify the Attorney-General, who shall indicate the person who shall make such analysis.

3487l. The jurors and witnesses may be summoned verbally by the coroner or his clerk or by a sworn constable, and the persons so summoned shall obey the order of the coroner, under the penalties provided respecting jurors and witnesses in cases before the Superior Court who do not obey the summons of the court.

3487m. The ordinary rules of evidence in force in criminal matters shall apply to coroner's inquests.

3487n. Coroner's inquests shall be public, and the interested parties may in the discretion of the coroner, be represented by counsel. Nevertheless, when the ends of justice and public morality so require, an inquest may be held with closed doors, and the coroner shall then allow only the interested parties and their counsel to be present.

3487o. Before proceeding with the inquest, the coroner shall swear the jurors, inform them of the object of the inquest, and have them view the body on which the inquest is to be held.

The witnesses shall give their evidence after having been duly sworn by the coroner.

3487p. The jurors and interested parties may suggest to the coroner, or, with the permission of the coroner, may put to the witnesses any questions pertinent to the matter which is the object of the inquest.

3487q. Previous to or during the inquest, the coroner shall have full power to order the detention, with or without a warrant, of any person or witness whom he may deem necessary and who, in his opinion, may fail or refuse to be present at the inquest.

He may require such persons to furnish sufficient bail to ensure their being present at the inquest.

3487r. When the evidence given at the inquest does not appear sufficient to fully enlighten the jury, the coroner may order the jury to view the premises.

3487s. No inquest shall be adjourned unless it is absolutely impossible to otherwise discover the truth.

3487f. When the taking of evidence is completed, the coroner shall sum up such evidence and point out what seems to him the proper way of appreciating the facts proved at the inquest.

3488a. The coroner shall see that the verdict declare whether or not there has been a crime. If it be found that a crime has been committed, the verdict must, as far as possible, indicate the person or persons held responsible therefor.

The verdict shall also state, so far as possible, the day when and the place where the crime was committed, and mention fully the acts which are considered criminal.

In rendering their verdict, the jurors may make such suggestions as they deem advisable for the protection of society.

3487r. The verdict shall be signed by the coroner and by the members of the jury. If any juror is unable to sign his name, he shall make his mark in presence of a witness.

3487w. If the jurors cannot agree upon their verdict, the coroner shall notify the Attorney-General, who may order the holding of another inquest.

If the jurors agree upon their verdict and indicate any person or persons held criminally responsible for the death of the deceased, the coroner shall proceed in accordance with section 667 of the Criminal Code.

IV.—INTERMENT AND DISINTERMENT

3487x. Subject to the laws already in force, the body of any person whose death has been the subject of investigation by the coroner, or the object of a regular inquest, cannot be buried or cremated without the permission of the coroner of the district where the death occurred.

Every infringement of this article shall be punished as under article 3487b.

3487y. Any human body, found within a city, town, village, parish or township, or an unorganized territory, shall, unless disposed of in the manner provided by articles 1814 to 1887, respecting anatomy, be buried at the expense of the corporation of such city, town, village, parish or township, or of the county in the case of unorganized territory situated within its boundaries; but the corporation may recover the amount of such expense from the estate of the deceased.

If a human body be found upon the beach of, or floating in, the river St. Lawrence, opposite the parish of Beaumont or the parish of S. Joseph de Lévis, and be not claimed as provided for by law, the coroner shall see to its bu-

rial, and shall be reimbursed the necessary and reasonable expenses incurred in connection therewith as for costs forming part of those of his office.

Every municipal corporation shall also bury, at its own expense, the body of any person who died within the municipality, and which is delivered to it by an inspector of anatomy in virtue of article 4885; and may recover the cost thereof either from the municipality where the deceased had his domicile at the time of his death or from the estate of the deceased.

3487. The coroner may order the disinterment of any body—whether buried with or without regular authorization—when he has reason to believe, from information obtained since the burial, that a crime has been committed and that an examination of the body is likely to furnish information to him and to the jury when a regular inquest will be held. Before ordering the disinterment and the summoning of a jury the coroner shall obtain the authorization of the Attorney-General and shall, as in ordinary cases, make a declaration under oath setting forth the reasons which justify him in so proceeding.

In such cases, the expense of such disinterment and re-interment shall be borne by the Province.

3487aa The coroner shall give a burial permit so soon as he no longer needs the body for his inquest.

The coroner shall dispose of all bodies in the manner ordered by article 3487g or by articles 4884 and following as the case may be.

MISCELLANEOUS DUTIES

3487bb. Within fifteen days following each inquest or investigation the coroner shall transmit to the Attorney-General a detailed and sworn statement of the costs in connection with the same together with a certified copy of his sworn declaration in cases where an inquest was held.

3487cc In the months of January and July of each year, or at such other time as the Attorney-General may specify, coroner shall make and transmit to the Department of the Attorney-General in duplicate a detailed return under oath, of all inquests held and investigations made during the previous six months, together with a certificate from the clerk of the Crown for the district that all the documents in connection with the inquests held, and the minutes of all investigations made, have been deposited in his office.

VI.—TARIF OF FEES

3487dd. The costs of any proceeding had or taken under this subsection shall be according to the tariff contained in the following schedule, and the coroner shall certify to their correctness in each item:

To the coroner or physician for every mile actually trav-

called by him for the purpose of holding an inquest or making an investigation.....	\$0 15-
To the coroner for investigating as to whether a regular inquest should be held, when such inquest is not held, etc.....	3 00
To the coroner for each complete inquest and return.....	8 00
To a physician for external examination.....	5 00
To a physician for internal examination.....	10 00
To a physician or any other competent person for chemical analyses, to include every analysis made on one body or any parts thereof, a fee not exceeding.....	20 00
When special difficulties arise, the Attorney-General may grant a higher fee.....	
To the person summoning the witnesses—for each witness.....	10
To the person summoning the jurors.....	1 50
To a clerk, in exceptional cases of an extraordinary nature, per day.....	2 00

To the person who gives notices to the coroner of the death..... his actual expenses.

3187*ee*. When the amount specified for every mile actually travelling expenses of the coroner or of the physician, the Attorney-General may, on waiver of the travelling expenses fixed by the tariff, allow the coroner or physician such other amount as may be deemed fair, and which shall be established by the oath of coroner or physician.

3187*ff*. All reasonable expenses, such as rent of premises for holding the inquest, and the custody of the body, may be allowed by the coroner; nevertheless no compensation for rent shall be allowed when the inquest is held on the property of or in a building owned by the deceased.

3187*gg*. The costs of an investigation shall not be allowed the coroner when he afterwards holds a regular inquest on the same body.

3187*hh*. The coroner shall certify under oath the statement of his fees and disbursements according to the tariff in force, and state the reasons justifying him in waiving his travelling expenses as fixed by the tariff in order to claim his actual travelling expenses, and also that he made use of the means of transportation, which are, under ordinary conditions, the least expensive.

Such accounts must be accompanied by vouchers for all payments made, and such vouchers shall be produced in the manner set forth in article 3187*hh*.

3187*ii*. No fee may be claimed by a coroner in respect of an inquest unless, before issuing his warrant for summoning the jury, he make the declaration under oath required by article 3187*d* and file the same with the report of the inquest.

3187*jj*. If the Attorney-General be convinced that any useless inquest, has been held, he may order that no fees be paid the coroner for such inquest.

VII.—SPECIAL APPOINTMENTS

3187*kk*. The Lieutenant Governor in Council may allow to the coroner of the district of Montreal, a fixed salary of not more \$2,100 per annum.

Such coroner shall thereafter cease to be entitled to the fees mentioned in this sub-section.

3187*ll*. The Lieutenant Governor in Council may allow to the coroner of the district of Quebec, a fixed salary of not more \$1600 per annum.

Such coroner shall, thereupon, cease to be entitled to the fees mentioned in this sub-section.

3487mm. The Lieutenant-Governor in Council may separate the Island of Anticosti from the district of Saguenay, for all purposes of investigations and coroners' inquests, and may appoint one or more coroners for the island of Anticosti, with such exclusive or concurrent territorial jurisdiction as he may be pleased to confer upon him or them; he may also, if the requirements of administration demand it, re-annex the island of Anticosti to the district of Saguenay.

3487nn. If it become necessary, owing to the great number of investigations and inquests in any district, the Lieutenant-Governor in Council may allow the coroner of such district a fixed salary of not more than twelve hundred dollars. Every such coroner shall thereafter cease to be entitled to the fees fixed by the tariff.

3487oo. In the case of articles 3487kk, 3487ll and 3487nn, the Lieutenant-Governor in Council may, if he deem the same preferable appoint:

a. A deputy coroner, at a fixed annual salary of not more than \$1000;

b. A clerk or clerks, at a fixed annual salary of not more than \$1000 each;

c. One or more medical experts for making examinations, autopsies or analyses, at a fixed annual salary of not more than \$2,000 each;

d. A person having the necessary knowledge and skill for making chemical analyses, at the annual salary that he may fix.

e. One or more constables at a fixed annual salary of not more than \$900 each.

A deputy coroner may also be appointed as clerk, and in such case, when he fills the position of clerk, his salary may be increased to \$1800, but no more.

Officers appointed by virtue of this article, shall cease, from the time of their appointment, to be entitled to the fees fixed by the tariff.

VIII. — PAYMENT OF SALARIES, FEES, ETC.

3487pp. The salaries of the officers appointed with fixed annual salaries, shall be paid out of the consolidated revenue fund of the Province.

The fees and other expenses of the coroners who have no fixed salary, and the expenses of those who have fixed salary, shall be paid out of the amount voted from time to time by the Legislature for the payment of the same.

IX. — FORMS

3487qq. The Attorney-General may approve and afterwards amend any form deemed necessary or expedient for the carrying out of this sub-section.

2. Article 4125 of the Revised Statutes, 1909, is amended by replacing the last paragraph thereof by the following:

"The medical superintendent shall without delay, after receiving the information above mentioned, as to the cause of death, notify the coroner".

LICENSE COMMISSIONS

939. 1. There shall be two license commissions, one of which shall be known as the Quebec License Commission, and shall hold its sitting in the city of Quebec; the other shall be known as the Montreal License Commission, and shall hold its sittings in the city of Montreal.

2. Each of the said commissions shall be composed of three members styled License Commissioners, who shall be appointed by the Lieutenant-Governor in Council; one of the members of each commission shall be a physician.

3. One of the members of each commission shall be appointed chairman of the commission.

4. The Lieutenant-Governor in Council may, in the case of the absence, sickness or other inability to act for more than ten days all or any of the license commissioners, appoint a competent person or persons to temporarily perform such duties.

5. A clerk to each of the license commissions shall be appointed by the Lieutenant-Governor in Council.

6. An assistant clerk shall be appointed by the Lieutenant-Governor in Council to act in the case of the sickness or absence of the clerk.

7. The clerk or assistant clerk may administer the oath required in support of certificates, petitions and other documents which may be used as evidence before the license commissioners.

8. The Lieutenant-Governor in Council shall grant out of the consolidated revenue fund to each of the license commissioners an annual salary not exceeding, in the city of Quebec, \$150, and in the city of Montreal, \$2,000; to the clerk a salary not exceeding in the city of Quebec, \$1,000, and in the city of Montreal, \$1,500; and to the assistant clerk such remuneration as may be deemed just.

9. Save in the case of a person who is not then a licenseholder, the confirmation of license certificates or the refusal to confirm the same shall be in the discretion of the license commissioners; and no opposition which may be made to the confirmation by them of any such certificate in either of the said cities of Quebec and Montreal shall bind the said commissioners or be considered as limiting the discretionary power granted them by this paragraph; and the said commissioners may perform any act and exercise any discretionary functions consequent upon the powers conferred upon them by this section.

10. In the event of the disagreement of the commissioners respecting the confirmation of any license certificate, the ruling of any two of them shall suffice to effect such confirmation, when no opposition is made thereto.

11. When opposition is made to any application for the confirmation of a certificate, such confirmation in the case of an applicant who has not previously been the

holder of an inn license — can be granted in Quebec and Montreal only with the unanimous consent of the commissioners. If the applicant be, at the time of the application, the holder of such a license, the unanimous consent of the license commissioners is not required for the confirmation of the certificate, but all three commissioners must hear the case.

12. Any person may oppose the application and, if notice of the opposition have been given to the clerk, the latter shall, three days before the taking into consideration of such application, give notice thereof to the applicant and to the opposant.

13. Any person, who produces before the license commissioners at a sitting at which the application is being taken into consideration, or who has previously filed with the clerk, in writing, the objections made by him to the granting of the confirmation of the certificate, shall have the right to be heard upon such objections or such other objections as may then be raised.

14. Paragraph 13 shall apply to every accredited representative of any association whether incorporated or not, established for the purpose of supervising the proper exertion of this section, and to every accredited representative of the incorporated associations of hotel-keepers and of licensed victuallers who shall also have the right to be heard in favour of the confirmation of the certificate.

15. The commissioners shall hear such persons, as well as the applicant, within eight days after the filing of the oppositions and, if necessary, shall adjourn the hearing from time to time, until a decision is rendered upon the opposition.

16. Any person intending to apply for the confirmation of a certificate shall procure the form from the office of the clerk and pay a tax of seven dollars in stamps affixed to such form, in each of the cities of Quebec and Montreal. The license commissioners shall not recognize any such certificate not having the required stamps.

17. The clerk shall prepare a list and post it up in a conspicuous place in his office, open to the public. Such list shall state the date of the entry of each applicant, the name, occupation and residence of the applicant, the situation of the house to which the license applies, and the day on which the application will be taken into consideration.

18. The license commissioners must take the applications for licenses into consideration according to the date and hour of their entry on the list by the clerk, but not before twelve days, nor later than eighteen days after the

date of such entry except when opposition is made to the confirmation of a certificate, or in case of the temporary inability of one of the said commissioners to act, in either of which cases the delay may be extended for not more than ten days.

In every case, the decision shall be given within thirty days from the filing of the declaration, or at any rate not later than the twenty-eighth of January following the date of the filing thereof, provided the application was filed not less than thirty days before such twenty-eighth of January; and a record of such decision shall be kept by the clerk of the commissioners.

19. If the applicant be already the holder of a license, and the commissioners see no objection to the confirmation of the certificate within the delay first clause of paragraph 18 of this article, they shall give their decision thereon as soon as such delay shall have expired.

20. The commissioners may, whenever they think necessary, take evidence upon oath or affirmation, and for that purpose may summon before them and administer the oath to any person.

21. Upon such hearing, the commissioners shall, collectively or separately, whenever they think fit make whatever inquiries they deem proper to satisfy themselves of the qualification of the applicant and of the truth of the facts put in issue.

22. The commissioners may, for that purpose, take into consideration all documents, hear, or cause to be heard by some fit person, all persons whom, from the personal knowledge of the commissioners or from the statements of the objecting parties or of others, they believe to be able to give information, and generally resort to any other source of information; and the commissioners shall grant an adjournment of the case if applied for, upon cause shown.

23. No license shall be granted by the collector of provincial revenue, unless there be deposited in his hands a certificate signed by the commissioners, who shall deliver to the applicant such certificate attesting the granting of such confirmation.

The clerk shall, from time to time, prepare a list of the certificates which the commissioners have confirmed and which are then in force, and keep it posted in the police court or in his office.

24. Any license certificate granted before the first day of May of the licence year for which such certificate is confirmed, may be revoked and cancelled by the licence commissioners at any time between the date of its confir-

mation and the said first day of May, by reason of acts committed between the said dates by the person in whose favor such certificate was confirmed. License commissioners shall notify the collector of provincial revenue of such cancellation, who, upon such notification, shall refuse to issue the license.

25. Whenever the confirmation of a certificate is refused the commissioners shall, at the request of the applicant, make known to him the reasons of such refusal.

26. Each of the said commissions may have a seal. The proceeding thereof shall be authentic, and copies thereof signed by the chairman or clerk shall be authentic.



JUDGES

Articles 3072, 3076 and 3077 R. S.,
(as amended in 1914)

3072. The Superior Court, which is a court of record, consists of forty-two judges, that is to say, of a Chief Justice and forty-one puisne judges.

3076. Twenty-one judges of the Superior Court shall reside in the city of Montreal, one of whom shall have special charge of the district of Terrebonne, another of the district of Beauharnois, another of the district of Richelieu, another of the district of St-Hyacinthe, and another of the district of Pontiac; five shall reside in the city of Quebec, two in the city of Three Rivers, one in the city of Hull, (or in the immediate vicinity of each of the above places); one at Mount Laurier, who shall also exercise his ordinary functions in the district of Ottawa, with residence in the city of Montreal one for the county of Gaspé, who shall also exercise his ordinary functions in the county of Bonaventure, with residence at New Carlisle, or at Perce, as he may choose, two for the district of Saguenay, who shall exercise their ordinary functions in the districts of Chicoutimi and Roberval, with residence at Malbaie in the district of Saguenay, at Chicoutimi in the district of Chicoutimi, or at Roberval in the district of Roberval, as each shall choose; one for the district of Montmagny, who shall exercise his ordinary functions in the district of Beauce, with residence in the city of Quebec; and one for each of the following district: Arthabaska, Bedford, Iboville, Joliette, Kamouraska and Rimouski, with residence in such places as may be assigned to them by law.

3077. 1. The judges to whom are assigned respectively the districts of Terrebonne, Beauharnois, Richelieu, St. Hyacinthe and Pontiac shall exercise their ordinary functions in any court wherein the judges of the court have jurisdiction, whenever their services are not required in their respective districts.

VOTING by ballot in certain school municipalities
(St. of 1915, 4 Geo. V c. 24)

§ 4 *Vote by ballot at election of school commissioners
and trustees in certain municipalities*

2668a. Every school municipality whose territory is wholly or partly situated within the boundaries of a municipality where the municipal elections for mayor and councillors are held by ballot, shall hold the elections of its school commissioners and trustees according to the provisions of this sub-section.

2668b. The nominations shall take place ten clear days before the first juridical Monday of July in each year, between the hours of noon and two o'clock in the afternoon. If this day be a holiday, the nominations shall take place on the first juridical day thereafter between the same hours.

The voting, if it be required, shall take place at the date mentioned in Article 2641.

2668c. Articles 5414 to 5424, and 5426 to 5516, inclusively, shall apply, *mutatis mutandis*, to elections held under this sub-section.

2668d. At an election a single polling place shall be established at a central point in the municipality, or at a point determined by resolution of the commissioners or trustees in a neighboring city, town or village municipality, if such neighboring municipality form part of the same parish or township. However when there are more than six hundred electors on the valuation role, other polling places may be established so as to make an equal division of the electors.

2668e. The secretary-treasurer of the municipality shall act as returning-officer.

2691a. If the court annuls the election of the commissioners or trustees or of any of them, elected under the provisions of Article 2668a and following, without standing who shall fill such offices, the court shall in such judgment order a new election to replace the persons whose election are annulled, appoint for the purpose a person to act as returning-officer, and fix a day for the nominations and also one for the polling. The latter day shall be fixed in conformity with the provisions of the last paragraph of art 2687.

If the person appointed by the court as returning-officer be unable to perform the service required of him, he shall be replaced by the secretary-treasurer.

EXPROPRIATION OF THE WAY REQUIRED FOR THE
LAYING OF PIPES FOR BRINGING WATER TO A
PULP OR PAPER MILL.

7294a. The proprietor or tenant of a pulp or paper mill whose site has no direct connection with any water supply which he has the right to use, and the water of which he has the right to divert, may expropriate an underground way across and land so as, by doing the necessary digging to lay pipes, to bring the water necessary for the operation of his pulp or paper mill.

The way must be had on the side where the crossing is shortest from his land to such water supply. It should however be established over the part where it will be least injurious to him upon whose land it is granted.

7294b. As soon as the laying of the pipes underground is finished, it shall be the duty of the expropriating party to level the earth in such a manner that the proprietor or occupant may make use of his land as before, in the most convenient way possible.

7294c. The right of way for the laying of under-pipes shall include also a servitude in favour of the expropriating party to make any repairs which may afterwards be necessary, upon payment of the actual damages which may be suffered by the proprietor or occupant of the land.

7294d. The provision of articles 7290 to 7294 shall apply to the expropriation authorized by this sub-section. However, the cost of the expropriation, whatever be the effect of the award made by the judge, shall be borne by the expropriating party, unless the judge decide otherwise.

7302a. No person can exercise the right and privileges conferred by this sub-section without being liable for the damages caused by his operations on rivers, streams, creeks, lakes or ponds, or on the banks or shores of the same.

7303a. Whenever logs or other timber belonging to more than one person, and which are being floated down any watercourse in the Province, are stopped in their descent by coming in contact with the bed of such watercourse, or with any rock, snag or other like obstruction therein, or by coming into contact with logs previously so stopped, the whole under such circumstances that during a period of at least ten days such logs cannot be further floated without the agency of man, then, if all the owners of the said logs or timber do not within ten days from the date when the same were so stopped, agree as to the floating thereof, the same may be floated as hereinafter provided.

7303d. Any one of the said owners who cannot float his own logs or timber without also floating the logs or timber of one or more of the other owners, may, alone or jointly with such of the other owners as he has an agreement with, by registered letter signed by him or them and addressed to the last known post-office address of the owner or owners of such logs or timber as he or they have not been able to agree with, notify the said last-mentioned owner or owners of the place where the said logs or timber are situated, and further notify him or them, that at a day and hour mentioned in such notice which day shall not be less than seven clear days from the date when, in the usual course of the post, all such letters should arrive at the respective post-offices to which they are addressed,—the sender or senders of the notice will proceed to float the said logs or timber, and will charge to other owner or owners thereof with his or their due proportion of the expense thereof.

7303c. If more than one notice is sent, the person or persons who sent the notice which was first put in the post-office shall have the prior right to float the said logs.

7303d. At the day and hour specified in his or their notice, the person or persons sending the first or the only notice, may proceed to float the said logs or timber, doing the same as promptly, efficiently and economically as possible, and the cost thereof, except as otherwise agreed, shall be borne by each owner of such logs or timber in proportion to the quantity thereof belonging to him.

4 Geo V, CHAP. 57

And Act respecting damage to persons.

[Assented to 19th February, 1911]

WHEREAS certain doubts have arisen as to the effect that articles 7323, 7324 and 7335 of the Revised Statutes, 1909, may have upon the common law right of action, any whereas it is expedient to put an end to such doubts;

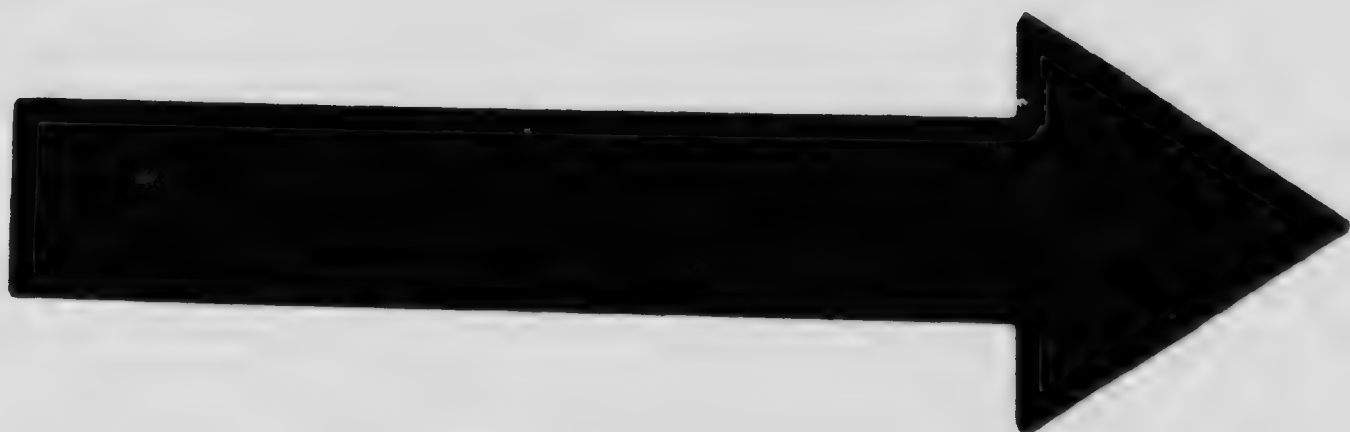
Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Article 7329 of the Revised Statutes, 1909, is amended by adding thereto a new paragraph, as follows:

"The person injured or his representatives may, at their option, demand the payment to themselves of the amount of the compensation, or of the capital of the rent, which shall in no case exceed two thousand dollars, whether in case of death, or of incapacity which would entitle him to an annual rent; saving the case provided for in Article 7325."

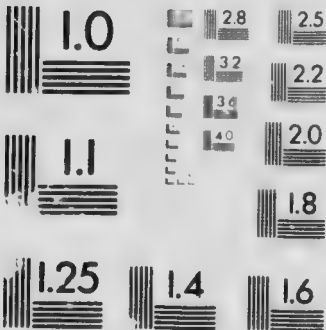
2. The Revised Statutes, 1909, are amended by inserting therein, after article 7347 thereof, a new article, as follows:

7347a. Nothing contained in this sub-section (articles 7321 to 7347a), shall be interpreted as doing away with any of the common law rights of action belonging to any persons who cannot avail themselves of the said sub-section".



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DEBENTURES

5903. Subject to the provisions of article 5777 regarding a sinking fund, any debenture issued by any municipal or other corporation shall be valid and recoverable to the full amount thereof, notwithstanding its negotiation by such corporation at a rate less than par, and shall not be impeachable for such reason in the hands of a holder for value.

5903a. Where, owing to an advance in the rate of interest between the date of a loan by-law passed before February 19, 1914, and the date of the sale or other disposal of the debentures issued under such by-law, they or any of them cannot be sold or disposed of except at a discount involving a substantial reduction in the amount provided for by the by-law, the municipal council may, with the approval of the Lieutenant-Governor in Council, and without submitting the same for the approval of the municipal electors, pass a by-law to amend the first mentioned by-law by providing for an increased rate of interest, and also, if necessary, for a corresponding increase in the special annual tax imposed by such by-law.

5903b. Where the interest for one year or more on a debenture, or the principal of one of a series of debentures, issued under a by-law passed either before or after February 19, 1914, has been paid by the municipal or other corporation which has issued such debentures, the by-law authorizing such issue, and the debentures issued thereunder, shall thereupon become valid and binding upon such corporation.

5903c. Every municipal debenture issued under a by-law approved of by the Lieutenant-Governor in Council, whether before or after the 19th February, 1914, in cases where such approval is required, is valid, and its validity cannot be contested for any cause whatsoever.

POWERS of certain companies to issue and re-issue bonds, debentures and other securities
(Statute of 1911, 4 Geo. V, c. 56.)

6116. Notwithstanding any existing law, any joint stock company, incorporated under an act of the Legislature of the province of Québec, or by letters-patent, or any company so incorporated outside the province, if empowered thereto by its charter or its letters patent, may by authentic deed—for the purpose of securing any bonds, debentures or debenture stock which it is by law entitled to issue—hypothecate, mortgage or pledge any property, moveable or immoveable, present or future, which it may own in the province.

6119b. Such hypothecation, mortgaging or pledging may be by trust deed to any trustee, and such security shall be good and valid, notwithstanding that the mortgagor or pledgor may be permitted by the trustee to remain in the possession and use of the property so mortgaged or pledged.

6119c. The rights which such hypothec and mortgage give upon immoveables, and the manner in which they must be registered, shall be governed by the provisions of the Civil Code in the title of *Privileges and Hypothecs* and that of *Registration of Real Rights*, and they shall be subject thereto.

The mortgaging and pledge of moveables shall confer a privilege upon moveables present and future, ranking immediately after the other privileges on moveables, enumerated in articles 1991, 1991a, 1991b, and 1994c, of the Civil Code. Such hypothec and such privilege shall take effect only from the date of the registration of the deed by which they are constituted in the Registry office of the registration division in which the company has its head office in the province, and also in any other division in which it has a place of business.

The registrar shall inscribe the trust deed creating a hypothec upon or a pledge of the moveables, in a register which he shall keep for that purpose, and which shall be at all times, during office hours, open to inspection by the public. The registrar may exact, for such registration and for such inspection, the fee which shall from time to time be fixed by the Lieutenant-Governor in Council.

6119d. 1. Where a company has redeemed any bonds or debentures previously issued, such company shall have power to keep such bonds or debentures alive for the purpose of re-issue; provided, that the conditions of issue do not expressly indicate the contrary, and that the bonds or debentures have not been redeemed in pursuance of an obligation on the company so to do. The latter proviso, however, shall not apply if such obligation be one enforceable only by the person to whom such bonds or debentures were issued, or his assigns.

2. Where a company has purported to exercise the power mentioned in the foregoing paragraph, such company shall have power to re-issue the bonds or debentures, either by re-issuing the same bonds or debentures or by issuing others in their place; and upon such a re-issue the person entitled to the bonds or debentures shall have the same right and privileges as if the bonds or debentures had not been previously issued.

3. Where with the object of keeping bonds or debentures alive for the purpose of re-issue, they have been transferred to a nominee of the company, a transfer from such nominee shall be deemed to be a re-issue for the purposes of this sub-section.

4. Where a company has deposited any of its bonds or debentures to secure advances from time to time on current account or otherwise, the bonds or debentures shall not be held to have been redeemed by reason only of the fact that the company may have ceased to be indebted whilst such bonds or debentures remained so deposited.

5. The re-issue of a bond or debenture or the issue of another in its place, shall not be treated as the issue of a new bond or debenture for the purposes of any provision limiting the amount or number of bonds or debentures to be issued.



QUEBEC ELECTION ACT

174. In the interpretation of this chapter, except where otherwise provided, or where in the context there is something which indicates a different meaning:

1. The expression "voting subdivision" applies, in so far as concerns voting, to any municipality or part of a municipality wherein the number of electors entered on the list then in force does not exceed two hundred;

2. The term "personal expenses", employed in relation to the expenditure of an individual respecting any election in which he is a candidate, includes all his reasonable travelling expenses, his reasonable expenses at hotels or other places to which he may repair for the purpose of and in regard to such election, the other expenses personally incurred in regard to such election which are not prohibited by law, and necessary petty disbursement made in cash on account of such election;

3. The expression "electoral district" means any portion of this Province entitled to return a member to the Legislative Assembly;

4. The word "domicile" means the place where a person has his principal establishment.

Change of domicile takes place by actual residence in another place, coupled with the intention of the person to make it the seat of his principal establishment. Proof of such intention may result from the declarations of such person, or from the circumstances of the case. And any person who has, for more than a year and a day, left his domicile in this province to live outside of Canada, is presumed to have changed his domicile.

A person appointed to a temporary or revocable public office retain his former domicile, unless he manifests a contrary intention.

The domicile of person of the age of majority, who serve or work continuously for others, is at the residence of those whom they serve or for whom they work, if they reside in the same house.

The son who is absent from his father's or mother's domicile with his or her consent, to study an art or a profession, or to learn a trade, has domicile with his father or mother as the case may be;

5. term "contractor" or "public contractor" means any person who has undertaken to execute or executes, directly or indirectly, alone or with any other person, by himself or by the interposition of any third party, any contract or agreement, expressed or implied, with or for the Government of the Province;

6. The word "son" applies to all descendants, to sons-

in-law, to step-sons, to person commonly called adopted sons, and also to persons who are treated as belonging to the family of those with whom they live;

7. The expression "widow's son" applies to the son of any widow who is owner, occupant or tenant of the whole or part of an immoveable entered upon the valuation roll in force in the municipality;

8. The word "tenant" means every tenant or sub-tenant, and applies to every individual who in good faith occupies the whole or part of an immoveable entered on the valuation roll in force in the municipality, who resides and keeps house there (save in the case of occupation of a shop, workshop, farm office), and who is obliged, or whose wife is obliged, to pay rent, either in money or kind, in consideration of the occupation of the said immoveable;

9. The word "mother" applies to all female ascendants, to mother-in-law, to step-mother, to so-called mothers by adoption, as well as to all persons of the female sex with whom any person lives and by whom such person is treated as one of the family;

10. The word "municipality" means every municipality of a parish or part of a parish, of a township, or part of a township, of united township of a village, or of a town, situated in the Province and governed by the Municipal Code, and every municipality incorporated by charter or special act and situated in the Province;

11. The word "occupant" applies to every person who, in his any title other than that of owner or tenant, an immoveable or part of an immoveable entered on the valuation roll in force in municipality, derives revenue therefrom, and there resides and keeps house;

12. The expression "election officer" applies to the returning-officer, the election clerk and any deputy-returning officer or poll-clerk appointed for the election of a member of the Legislative Assembly;

13. The word "father" applies to all male ascendants, fathers-in-law, step-fathers, so-called fathers by adoption, as well as all male persons with whom any person lives and by whom such person is treated as one of the family;

14. The word "person" includes any association or assembly of individuals whether incorporated or not; and when members of such an association or assembly take part in the commission of an act of such association or assembly, they are subject to the penalties enacted in this chapter as if they had acted individually;

15. The word "owner" means any one who possesses, or whose wife possesses, in good faith, and either as owner or usufructuary, an immoveable or part of an

immoveable entered on the valuation roll in force in a municipality; but does not include any one who has only the naked ownership of an immoveable or part of an immoveable:

16. The word "registrar" applies to the registrar of any registration division which contains within its boundaries an electoral district, as well as to the registrar of a registration division whose boundaries are the same as those of an electoral district;

17. The word "annuitant" (rentier) means any person in receipt of an income or annuity in money or in kind; The expression "secretary-treasurer" includes the clerk of every town or city municipality.

19. The expression "to vote" means to vote at the election of a member of the Legislative Assembly."

180. The following persons, and no others, being males, and who, at the time of the deposit of the list under articles 196 and 197, or 222 and 223, as the case may be, are domiciled within the limits of the municipality for which the list is made, and who are of the full age of twenty-one years, subjects of His Majesty by birth or naturalization and not otherwise legally disqualified, shall be entered upon the list of electors:

1. Owners, occupants and tenants;
2. Sons of owners, occupants or tenants domiciled with their father, and widow's sons domiciled with their mother;
3. Priest, rectors, vicars, missionaries and ministers of any religious denomination;
4. Teachers, professors, principals of educational institutions, and members of teaching congregations;
5. Navigators who are owners in whole or in part of a registered ship, and fishermen who are owners of boats, nets, seine and fishing tackle which together are of the value of at least fifty dollars;
6. Annuitants;
7. Persons who receive by any title whatever, in money or in kind, an average revenue of at least ten dollars per month."

182. Persons who, when the list is deposited, have their domicile in this Province, but in a territory not erected into a municipality, or in a territory whose council is not organized, and who fulfil the other conditions set forth in article 190, may be entered on the list of electors of the municipality to which such territory has been annexed under article 192a."

Nevertheless the sons of the persons mentioned in paragraph 1 of Article 180 shall not, by reason thereof, be prevented from being electors, and may be entered on

the list as sons of owners, occupants or tenants, as the case may be;

2. Indians and individuals of Indian blood domiciled on land reserved for Indians or for any band of Indians, or held in trust for them, whether or not such reserve is within the boundaries of a municipality.

CITIES AND TOWNS

1. Article 5645 of the Revised Statutes, 1909, is amended by adding the following paragraph thereto:

But, if the cost of the works provided for by such by-laws amounts to \$5,000 or over, they shall come into force only after being approved by the majority in number and in value of the municipal electors, by observing the formalities required by articles 5609 to 5622.

5790a. 1. Such warrant may also be granted by any such judge, without such award or agreement, on a fidavrit to his satisfaction that the immediate possession of the lands, or of the power to do the thing mentioned in the notice, is necessary for the execution of some part of the works ordered by the council, within the limits of its powers, and with which the municipality is ready forthwith to proceed.

2. No judge shall grant any warrant under this article unless ten days' previous notice of the time and place when and where application for its granting will be made to him, has been served upon the proprietor of the land, or the person empowered to convey the land, or interested in the land sought to be taken, or which may suffer damage from the taking of material sought to be taken, or from the exercise of the rights sought to be exercised, or the doing of the thing sought to be done by the municipality.

3. No judge shall grant any such warrant except upon the municipality giving security to his satisfaction, by depositing in a chartered bank, to be designated by him to the credit of the secretary of the municipality and of such proprietor or such person jointly, a sum larger than his estimate of the probable indemnity.

The costs of the application to and of any hearing before the judge shall be borne by the municipality in any event.

1. The petition, the warrant of possession, and all other documents connected with such incidental proceedings, shall remain of record in the Superior Court of the district in which such proceedings were had, and a special register of such proceedings shall be kept by the prothonotary.

5. No part of the deposit, or of the interest arising therefrom, shall be reimbursed or paid to the municipality, or paid to the proprietor, or to the said person, without the order of the judge, who is authorized to grant the same in conformity with the terms of the award of the arbitrators, or of the amicable agreement between the parties.



ANNOTATIONS

Agent general in Belgium; Arts. 712*A* - 712*c* added in 1915 Automatic distributors, Statute of 1915 (5 Geo. v, c. 23).

Dairy products - Arts. 3963 R. S. Q., 1964, 1964*a*, to 1969*c*, 2031 *g*, to 2031*p*, as enacted in 1915.

Hotels (Inspection). See Arts. 3866*a* to 3866*j* added in 1915 (5 Geo. v, c. 11).

Employment bureau. Arts. 5520*f*, to 2520*r* added in R. S. Q. in 1914 (4 Geo. v, c. 21).

Private detectives—3666*a* to 3666*i* R. S. Q. (added in 1915).

Public Health. Art. 3894*a*, 3911*a* to 3911*f*, 3921*a*, 3927*a* Added in 1915.

Public laundries—Arts. 1299 *a*, *b*, *c*, and *d* added in 1915 in R. S. Q.

Societies for the prevention of cruelty to animals. Art. 724*a* and *b* added in R. S. Q. in 1914 (Geo. v, c. 70).

Stationary engineers. Arts. 3366*g* to 3866*m* added in 1914 (4 Geo. v c. 12).

INSURANCE

General provision applicable to all companies
or associations

Certain contract to be construed according
to law of Province, etc.

7027. When the subject matter of any insurance contract is property or an insurable interest within the limits of the Province, or is in connection with a person domiciled or resident therein, any policy, certificate interim receipt, or writing evidencing the contract shall if signed, countersigned, issued or delivered in the Province, or committed to the post office or to any carrier, messenger or agent, to be delivered or handed over to be assured, his representative or agent in the Province, be deemed to evidence a contract made in the Province, and the contract shall be construed according to the law of the Province, and all moneys payable under the contract shall be paid at the office of the chief officer or agent of the company or association effecting the insurance in the Province, this article shall have effect notwithstanding any agreement, condition or stipulation to the contrary.

Terms of contract to be set out in instrument.

7028. 1. Where an insurance made by any company or association, is evidenced by a written instrument, the company or association shall set out all the terms or conditions of the contract in full on the face or back of the instrument forming or evidencing the contract, and, unless so set out, no term or condition, stipulation or proviso modifying or impairing the effect of any such contract made or renewed after the tenth day of February, 1900, shall be good and valid or admissible in evidence to the prejudice of the assured or beneficiary.

2. Nothing contained in this article shall exclude the proposal or application of the assured from being considered with the contract, and the court shall determine how far the insurer was induced to enter into the contract by any misrepresentation contained in the said application or proposal.

3. A mutual benefit or charitable association may, however, instead of setting out the complete contract in the certificate or other instrument of contract, indicate therein, by particular references, those articles or provisions of the constitution, by-laws or rules which contain

If the material terms of the contract not inserted in the instrument of contract itself, and the association shall,

at or before the delivery over of such instrument of contract, deliver also to the assured a copy of the constitution, by-laws, and rules therein referred to.

7020. After any loss or damage to insured property, the insurance company shall have, by a duly accredited agent, an immediate right of entry and access sufficient to survey and examine the property and make an estimate of the loss or damage.

Insurance of the Person

Premium may be paid thirty days after due.

7030. 1. In any insurance of the person, where the money payable by way of premiums, dues or assessments (not being the initial premiums, dues or assessments), under any contract whatsoever, is unpaid, the insured, or one or more of the beneficiaries, under the policy, may, within thirty days from and including the first day on which the money is due, by registered letter or otherwise, pay, deliver or tender to the company or association at its head office, or at its chief agency in the Province, or to the collector or authorized agent of the company or association, the sum in default. The contract of insurance shall continue in existence during such thirty days, and any stipulation or agreement to the contrary shall, as against the assured or his beneficiaries, be utterly void. The thirty days hereinbefore mentioned shall run concurrently with the period of grace or credit, if any, allowed by the insurer for the payment of a premium or of an instalment of premium.

Nothing in this article shall be deemed to extend the period of grace or credit beyond the total of thirty days, or as preventing the insurer from charging legal interest, during such thirty days, upon the amount of the premium due by the insured.

2. Notwithstanding any stipulation or agreement to the contrary, any action or proceeding against the insurer for the recovery of any claim under or by virtue of a contract of insurance of the person, may be commenced at any time within one year next after the happening of the event insured against, or within the further term of six months, by leave of a judge of the Superior Court, granted upon a petition, upon its being shown to his satisfaction that there was a reasonable excuse for not commencing the action or proceeding within the first mentioned term.

3. But no such action or proceedings shall be commenced after the expiration of the year and additional

six months, except in cases where death is presumed from the assured not having been heard of during seven years, in which case any action or proceeding may be commenced within one year and six months from the expiration of such period. 8 Ed. VII, c. 69, s. 199.

7031. 1. No company or association shall insure or pay on the death of a child under ten years of age, any sum of money which added to any sum payable on the death of such child by any other insurer, will exceed the following amounts respectively, that is to say:

If such child dies under the age of :

2 years	\$ 32
3 "	40
4 "	48
5 "	56
6 "	83
7 "	140
8 "	168
9 "	200
10 "	260

Nothing in this article shall apply to such insurances to the lives of children under ten years of age as were in existence on the tenth day of February, 1909, or apply to insurance on the lives of children of any age where the person effecting the insurance has a pecuniary interest in the life of the assured.

2. Where the age of the assured is, at the date of the contract less than ten years, and the company or association has knowingly, or without sufficient inquiry, entered into any contract prohibited by paragraph 1 of this article, the premiums paid thereunder shall be recovered from the company or association by the person or persons paying the same, together with legal interest thereon.

3. Every company or association undertaking or effecting insurances on the lives of children under ten years of age, shall print paragraphs 1 and 2 of this article 2590 of the Civil Code, in conspicuous type upon every circular soliciting and upon every application for and every form of contract of such insurance; and any contravention of this provision shall be punishable as an offence against article 6961.

Nevertheless, instead of printing what is required by this paragraph, the company may, with the permission of the Provincial Treasurer, cause to be printed or stamped

on the circulars, in every application and every form of contract, in conspicuous type, the words: "All insurances effected or solicited in the Province of Quebec in connection with the lives of children under ten years of age are subject to the restrictions contained in article 7031 of the Revised Statutes of Quebec 1909."

General Provisions applicable to all Fire Insurance Companies

7032. 1. Every company licensed and registered for the transaction of fire insurance may, within the limits prescribed by the license and registration, insure and reinsure dwelling houses, stores, shops and other buildings household furniture, merchandise, machinery, live stock, farm produce, and other commodities, against damages or loss by fire or lighting, whether the same happens by accident or any others means except design on the part of the assured, the invasion of an enemy, or insurrection.

2. Any insurance company registered under this section for the transaction of fire insurance, and lawfully insuring any mercantile or manufacturing risk against fire, may, either by the same or a separate contract, insure the same risk against loss or damage arising from defects in or injuries to sprinklers or other fire extinguishing appliances

7033. 1. Contrats of fire insurance, with the exception of those entered into by mutual insurance companies on the mutual system which are limited to five years shall not exceed the term of three years; and the insurance of mercantile and manufacturing risks shall, if on the cash system, be for terms not exceeding one year.

2. Any contract that may be made for one year or any shorter period, on the deposit note system, or for three years or any shorter period on the cash system, may be renewed at the discretion of the board of directors by a renewal receipt instead of a policy, on the insured paying the required premium, or, in the case of a contract on the deposit note system, by giving a new deposit notes for renewal, must be made the end of the year or other period for which the deposit note was granted, otherwise the policy shall be null and void.

3. No registered company, authorized to effect insurance against fire in this province, shall incur liability upon a single risk, to an amount exceeding ten per cent of its capital and surplus, unless such excess is reinsured in another company.

4. The Provincial Treasurer may suspend or cancel the license or registration of a company that assumes a heavier responsibility on a single risk than that permitted by paragraph 3 of this article.

FIRE INSURANCE

The Quebec statutory conditions

7034. The conditions set forth in this article shall as against the insurer, be deemed to be part of every contract of fire insurance entered into or renewed on or after February 10, 1909, in the Province, with respect to any property therein or in transit therefrom or thereto, and shall be printed on every such policy with the heading "Conditions of the Policy," and no stipulation to the contrary, or providing for any variation, addition or omission, shall be binding on the assured unless evidenced in the manner prescribed by articles 7035 and 7036.

CONDITIONS OF THE POLICY

1. If any person insures his buildings or goods, and causes the same to be described otherwise than as they really are, to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force with respect to the property in regard to which the misrepresentation or omission is made; but when the application is made out by the company's agent, such application shall be deemed to be the act of the company.

2. After application for insurance, it shall be presumed that any policy sent to be assured is intended to be in accordance with the terms of the application, unless the company points out, in writing, the particulars where in the policy differs from the application.

Any change in the use or condition of the property insured as defined by the policy, made without the consent of the insurer, and within the control or knowledge of the assured, and which creases the risk, shall void the policy, unless the changes is promptly notified in writing to the company or its local agent; and the company, when so notified, may return the premium for the unexpired period and cancel the policy, or may demand in writing and additional premium, which the assured shall, if he desires the continuance of the policy, forthwith pay to the company; and if he neglects to make such pay-

ment forthwith after receiving such demand, the policy shall be no longer in force [Cf. 2574 C. C. Q.]

1. The insurance is rendered void by the transfer of the interest in the object of it from the insured to a third person unless such transfer is with the consent or privity of the insurer.

The foregoing rule does not apply in the case of rights acquired by succession or in that specified in clause *b* of this paragraph.

a. The insured has a right to assign the policy with the thing insured, subject to the conditions therein contained.

b. A transfer of interest by one to another of several partners or owners of undivided property who are jointly insured does not avoid the policy. [Cf. 2577 C. C. Q.]

4. Where property insured is only partially damaged, no abandonment of the same will be allowed, except with the consent of the company or its agent, and in case of removal of property to escape conflagration, the company will contribute to the loss and expense attending such act of salvage proportionally to the respective interests of the company or companies and the assured.

6. Money, books of account, securities for money, and evidences of debt or title are not insured.

7. Plate, plate-glass, plated ware, jewelry, paintings, sculpture, curiosities scientific and musical instruments, patterns, plans, uncoined gold and silver, works of art, article of vertu, frescoes, clocks, watches, trinkets and mirrors are not insured unless mentioned in the policy.

8. The company is not liable for loss, if there is a prior insurance in any other company, unless the company's assent thereto appears in the policy or is endorsed thereon, nor if any subsequent insurance is effected by any other company, unless and until the company assents thereto, or unless the company does not dissent in writing within two weeks after receiving written notice of the intention or desire to effect the subsequent insurance, or does not dissent in writing after that time and before the subsequent or further insurance is affected.

9. In the event of any other insurance on the property herein described having been assented to as aforesaid, then the company shall, if such other insurance remains in force, on the happening of any loss or damage, be liable only for the payment of a rateable proportion of such loss or damage, without reference to the dates of the different policies.

10. The company is not liable for the losses following, that is to say :

a. For the loss of property owned by any other person than the assured, unless the interest of the assured is stated in or upon the policy ;

b. For loss by fire caused by invasion, insurrection, riot or civil commotion, military or usurped power, earthquake or volcanic eruption ;

c. Where the insurance is upon buildings or their contents, for loss caused through the want of good and substantial brick or stone chimneys ; or by ashes or embers being deposited with the knowledge and consent of the assured, in wooden vessel ; or by stoves or stove-pipes being, to the knowledge of the assured, in an unsafe condition or improperly secured ;

d. For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary ;

e. For loss or damage occurring to buildings or to their contents, while the buildings are being repaired by carpenters, joiners plasterers or other workmen, and when loss or damage to such buildings or their contents is due to such carpenters, joiners, plasterers or other workmen, unless permission to execute such repairs has been previously granted in writing, signed by a duly authorized agent of the company. But in dwelling house fifteen days are allowed in each year for incidental repairs without such permission ;

f. For loss or damage occurring when petroleum, or rock, earth or coal-oil, camphine, gasoline, burning fluid benzine, naphtha or any liquid products thereof, or any of their constituent parts (refined coal-oil for lighting purposes only, not exceeding five gallons in quantity, or lubricating oil not being crupetroleum or oil of less specific gravity then required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds of gunpowder, is or are stored or kept in the building insured or containing the property insured or containing the property insured, unless permission is given in writing by the company.

11. The company shall make good, loss caused by the explosion of gas in a building not forming part of the gasworks, and all other loss caused by any explosion causing a fire and all loss caused by lightning, even if it does not set fire.

12. Proof of loss must be made by the assured, although the loss be payable to a third person.

13. Every person entitled to make a claim under this policy shall observe the following directions:

a. He shall forthwith after loss give notice in writing to the company: *Carmen* 1909 p. 415.

b. He shall deliver, as soon after as practicable, as particular an account of the loss as the nature of the case permits;

c. He shall also furnish therewith a sworn declaration establishing:

1. That the said account is just and true;
2. When and how the fire originated so far as declarant knows or believes;
3. That the fire was not caused through his wilful act or neglect, procurement, means or contrivance;
4. The amount of other insurances [*R. S. Q.* 7031 §§8 and 15];
5. All liens, and incumbrances on the property insured;
6. The place where the property insured, if moveable, was deposited at the time of the fire.

d. He shall, in support of his claim, if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers, and also copies of all his policies; and shall separate, as far as reasonably may be, the damaged from the undamaged goods, and exhibit for examination all that remains of the property which was covered by the policy.

e. He shall produce, if required, a certificate under the hand of a magistrate, notary, commissioner for taking affidavits, or municipal clerk, residing in the vicinity in which the fire happened, and not concerned in the loss or related to the assured or sufferers, stating that he has examined the circumstances attending the fire, loss or damage alleged, that he is acquainted with the character and circumstances of the assured or claimant, and that he verily believes that the assured has, by misfortune and without fraud or evil practice, sustained loss and damage in respect of the property assured to the amount certified.

14. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for.

15. Any fraud or false representation in relation to any of the above particulars, shall vitiate the claim.

16. If any difference arises as to the value of the property insured, of the property saved or the amount of the loss, such value and amount and the proportion thereof (if any) to be paid by the company, shall, whether the

right to recover on the policy is disputed or not and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the two persons first chosen, or, on their failing to agree, when by a judge of the Superior Court sitting in the district wherein the loss has happened; and such reference shall be subject to the provisions of articles 1431 and following of the Code of Civil Procedure. The award shall, if the company is in other respects liable, be conclusive as to the amount of the loss and proportion to be paid by the company. Where the full amount of the claim is awarded, the costs shall follow the event, and in other cases, all questions of costs shall be in the discretion of the arbitrators.

17. The loss shall not be payable until sixty days after completion of the proofs of loss, unless otherwise provided for by the contract of insurance. Product on par. 22.

18. The company, instead of making payment, may repair, rebuild or replace, within a reasonable time, the property damaged or lost, giving notice of their intention within fifteen days after the receipt of the proofs herein required.

19. The insurance may be terminated by the company, by giving notice to that effect, and, if on the cash plan, by tendering therewith a rateable proportion of the premium for the unexpired term, calculated from the termination of the notice. In the case of personal service of the notice, five days' notice, excluding Sunday, shall be sufficient. Notice may be given by any company having an agency in the Province of Quebec, by registered letter addressed to the assured at his last post office address notified to the company, and where no address has been notified, then to the post office of the agency from which the application was received, and, where such notice is by letter, then seven days from the arrival at any post office in the Province shall be deemed good notice. The policy shall cease after such tender and notice aforesaid, and at the expiration of the five or seven days as the case may be.

The insurance, if not cash, may also be terminated by the assured, by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall pay to the assured the balance of the premium paid

20. No condition of the policy shall be deemed to have been waived by the company, either wholly or in part, unless the waiver is clearly expressed in writing, signed by an agent of the company.

21. An officer or agent of the company, who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the company for such purpose.

22. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within one year next after the loss or damage occurs.

23. Any written notice to the company for any purpose of the conditions of the policy, where the mode thereof is not expressly provided by law, may be by letter delivered at the head office of the company in the Province of Quebec, or by registered letter addressed to the company, its manager or agent, at such head office, or by such written notice given in any other manner to an authorized agent of the company.

Variations in conditions.

7035. If the insurer desires to vary the said conditions, or to omit any of them, or to add new conditions there shall be added to the contract containing the printed statutory conditions, words to the following effect, printed in conspicuous type and in ink of a different colour.

VARIATIONS IN CONDITIONS

This policy is issued on the above conditions with the following variations and additions: (*set forth the conditions.*)

These variations are made by virtue of the Quebec Insurance Act, and shall have effect in so far as, by the court or judge before whom a question is tried relating thereto, they shall be held to be just and reasonable requirements on the part of the company.

Must be distinctly indicated.

Payment of certain claims optional, &c.

7036. No such variation, addition or omission shall unless the same is distinctly indicated and set forth in article 7035, be legal and binding on the insured.

It shall be optional with the insurers to pay or allow claims which are void under the third, the fourth, or the eighth condition of the policy, in case the insurers think fit to waive the objections mentioned in the said conditions.

Contents of interim receipt.

Statutory conditions.

7037. It is not necessary that the interim receipt which precedes the regular issue of a policy should con-

tain all the conditions of the contract but the insertion in full in the said interim receipt of the conditions of the contract derogating from the statutory conditions is sufficient. All statutory conditions apply to the interim contract, unless derogated from in the manner indicated by articles 7035 and 7036.



VOLUNTARY WINDING UP OF JOINT STOCK COMPANIES

§1.—*Method of Winding Up*

Voluntary winding up of joint stock companies

6120. Any joint stock company, incorporated by letters patent or special act, may be wound up voluntarily, whenever the directors deem it expedient that the company shall be dissolved.

General meeting.

6121. The directors shall thereupon convene a general meeting of the shareholders, mentioning in the notice that the dissolution of the company will be proposed at such meeting.

Resolution of directors. Formalities.

6122. The resolution of the directors, declaring it to be expedient that the company should be wound up voluntarily, shall be submitted to the general meeting of the shareholders, and if such meeting pass, by a majority representing not less than two-thirds of the stock, a resolution that the company shall be wound up voluntarily and dissolved, then the company shall forthwith subsist and carry on business for the purpose only of winding up its affairs.

Corporate powers continued.

6123. The corporate state and corporate powers of the company shall continue until its affairs are wound up.

§ 2.—*Liquidators*

Appointment of liquidators.

6124. At the general meeting, a liquidator or liquidators shall be appointed for the purpose of winding up the

affairs of the company and of distributing its assets; and thereupon the board of directors shall cease to exist.

Vacancy in office of liquidators.

Removal of liquidators.

6125. If any vacancy occurs in the office of liquidator by death, resignation or otherwise, the company may, at a general meeting, fill up such vacancy; and such general meeting may be called by the continuing liquidators or liquidators, or by any shareholder.

The company may also, at a general meeting called by any three shareholders, on notice mentioning that the removal of the liquidators or of any liquidator will be proposed, remove such liquidator or liquidators, and appoint another or others in his or their place.

Appointment of liquidators by judge.

Their removal.

6126. In default of the shareholders appointing or replacing a liquidator or liquidators, any judge of the Superior Court, in the district where the company has its chief office or principal place of business, may, on application of a shareholder, *after a default of fifteen days*, appoint a liquidator or liquidators.

The judge may also, on due cause shown, remove any liquidator, and he may, *after a default of fifteen days* on the part of the shareholders to do so, appoint another.

Registration of notice of winding up resolution.

Notice to Provincial Secretary and publication.

6127. Notice of the resolution passed by the shareholders for the winding up and dissolution of the company, shall be *registered forthwith in the office of the prothonotary of the Superior Court for the district, and in the registry office for the registration division in which the company has its chief office or principal place of business.*

Notice of such resolution shall also be given to the Provincial Secretary, and shall be published by him in the *Quebec Official Gazette*.

Duties of liquidators.

6128. The liquidator or liquidators shall also take into his or their custody, and under his or their control, all the assets of the company, and shall, subject however to such limitations as may be determined by the resolution of the company, have power:

1. To bring or defend any action or other judicial proceeding in the name and on behalf of the company;
2. To carry on the business of the company, so far as may be necessary for the beneficial winding up of the same, and to collect all moneys due to it;
3. To sell the moveable and immoveable property of the company, by public auction or private sale, and

either in the lump or in parcels : provided that, at a general meeting of the shareholders, the majority have given their consent to such sale in the lump;

4. To execute, in the name and on behalf of the company, all deeds, acquittances, receipts and other documents;

5. To draw, accept, make or endorse bills of exchange, or promissory notes, in the name and on behalf of the company; and to raise upon the security of the assets of the company, from time to time, any requisite sums of money;

6. To do and execute whatever else may be necessary for winding up the affairs of the company and distributing its assets, including the power to compromise, at discretion, all claims and rights belonging to the company.

Powers when several are appointed.

6129. When several liquidators are appointed, their powers may be validly exercised by the majority of them. 1782.

Payment of debts, &c.

6130. The liquidator or liquidators shall first pay the debts of the company, and the costs charges and expenses of winding it up, and shall afterwards distribute the balance of the proceeds of the assets among the shareholders, according to their rights and interests in the company.

Collection of sums due

6131. The liquidator or liquidators shall recover and collect unpaid calls, in full or proportionately as the case may require, from shareholders in default, should he or they deem it necessary; but in case of the non-collection in whole or in part of such unpaid calls, the shareholders in default shall only rank in the distribution when those who have paid more shall have been ranked for the excess so paid by them.

Remuneration of liquidators.

6132. The shareholders shall fix the remuneration of the liquidator or liquidators; and also whether or not he or they shall give security for his or their administration, specifying when security shall be given and the amount thereof.

6133. If the winding up continues for more than one year, the liquidator or liquidators shall call a general meeting of the shareholders, at the end of first year, and at the end of each succeeding year, or so soon thereafter as may be convenient; and he or they shall lay before such meetings an account, showing his or their acts and dealings, and the manner in which the operations for the winding up have been conducted during the preceding year.

Statement after winding up by liquidators.

6134. As soon as the affairs of the company are fully wound up, the liquidator or liquidators shall make up an account showing the cash on hand at the date on which the company was placed in liquidation, the property of the company disposed of, the amounts realized, the sums paid, and generally the manner in which such winding up has been conducted, and shall attest the same before a justice of the peace; and thereupon he or they shall call a general meeting of the company for the purpose of laying such account before the shareholders, and having the same confirmed.

Notice to Provincial Secretary Registration &c.

6135. *The liquidator or liquidators* shall make a return to *the Provincial Secretary* of such meeting having confirmed the account, showing the manner in which the winding up has been conducted.

The Provincial Secretary shall cause such return to be registered in the registers of the Province; and forthwith on the registration thereof, the company shall be dissolved.

Proceedings after dissolution

Notice of dissolution by Provincial Secretary.

Registration of notice.

6136. The Provincial Secretary shall, without delay *publish a notice of the dissolution* of the company in the *Quebec Official Gazette*, and the liquidator or liquidators shall also forthwith register a notice of the dissolution in the office of the prothonotary of the Superior Court for the district, and in the registry Office for the registration division in which the company had its chief office or principal place of business.

Deposit with Provincial Treasurer.

6137. Within thirty days after the date of the dissolution of the company, the liquidator or liquidators shall deposit with the Provincial Treasurer the amount of all debts and of all dividends which may then be unclaimed and unpaid, with a statement thereof attested before a justice of the peace; and the money so deposited shall be treated as a deposit under section twenty-fourth or chapter fifth of title fourth of these Revised Statutes respecting judicial and other deposits (articles 1480 to 1498); and when claimed shall be paid over to the persons entitled thereto.

Deposit of books, accounts, &c.

6138. Within the same period of thirty days, the liquidator or liquidators shall deposit, in the office of the prothonotary of the Superior Court for the district in which the company had its chief office or principal place of business, the books, accounts and documents of the company, and also the sworn account submitted to the shareholders and confirmed by them, showing the manner in which the winding up has been conducted, and a duplicate of the sworn statement of the moneys deposited with the Provincial Treasurer.

Neglect to deposit.

6139. If the liquidator or liquidators neglects or neglect to deposit the moneys with the Provincial Treasurer, or to deposit the books, accounts and documents as provided in articles 6137 and 6138, he or they severally shall be liable to a penalty not exceeding ten dollars for every day during which he or they is or are in default.

Rendering of accounts.

6140. The liquidator or liquidators shall be bound to render his or their accounts and to pay over the moneys for which he is or they are accountable, under the same obligations and penalties as a curator to the property of a dissolved corporation under the Civil Code.

FLAT

A person cannot use the name of another to plea, except the Crown through its recognized officers, *v. g.* under the Post Office Act (Can. R. S., c. 66, s. 110), the Customs Act (c. 18, s. 66), etc. Vide The Government Railway Small Claims Act, 1910, amended in 1914 (c. 9) and 1916.

The curator to a judicial abandonment may, with the leave of the judge, upon the advice of the creditors or inspectors, exercise all the rights of the debtor and all the actions possessed by the mass of the creditors. (Art. 877, C. P. Q.) No such faculty is given to the curator to the insolvent in a voluntary abandonment.

The liquidator to a company under the Winding Up Act (Can. R. S., c. 144, s. 34) may with the leave of the court appear for it, but in stating his capacity of liquidator of such company.

The liquidators of a dissolved partnership (1896a, C. C. Q.) cannot perform any acts exceeding those of administration without the consent of all the partners, and, in default of such consent, only with the approval of the court or judge, after previous notice to the members of the partnership.

The curator to a vacant succession administers its property, exercises and prosecutes all the rights pertaining to it and answers all claims brought against it. (Art. 686, C. C. Q.)

The liquidator to an insolvent non-commercial company is subject to the rules governing the curator to a judicial abandonment. (Art. 373h, C. C. Q.)

Partnership *en commandite* or limited partnership. Suits in relation to the business of the partnership may be brought and conducted by and against the general partners, in the same manner as if there were no special partners. (Art. 1881, C. C. Q.)

A wife cannot appear in judicial proceedings without her husband or his authorization, even if she be a public trader or not common as to property: nor can she, when separate as to property, except in matters of simple administration. (Art. 176, C. C. Q., 1909 and 1101 C. P. Q.)

If a husband refuse to authorize his wife to appear in judicial proceedings, the judge may give the necessary authorization (Art. 178, C. C. Q.) If a husband be interdicted or absent, the judge may authorize his wife to appear in judicial proceedings. (Art. 180, C. C. Q.)

The separation as to bed renders the wife capable of suing and being sued alone for all that relates to the administration of her property. (210, C. C. Q.)

Every married woman may, notwithstanding Article 176 C. C. Q., institute an action in damages within one year *v.* an hotelkeeper in her own name without the authorization of her husband. (Art. 1087 R. S. Q.)

Minors. Actions belonging to minor are brought in the name of his tutor; nevertheless a minor of fourteen years of age may however bring actions to recover his wages. (C. R. S. Q., 2711; C. P. Q., 126.)

He may also with the authority of a judge exercise all other actions arising from the contract of hire of his personal services. (Art. 261 C. C. Q.)

A minor engaged in trade is reputed of full age for all acts relating to his trade. (Art. 323 C. C. Q.)

The minor must be represented by his tutor to ask the judicial authorization upon the advice or a family council for marriage and marriage covenants. (122 ff. C. C. Q.)

Emancipated minor. He can neither bring nor defend a real action without the assistance or his curator. (Art. 320, C. C. Q.)

A special tutor must be named to each minor whose interests are opposed to those of any other minor in the compulsory partition and licitation. (Art. 1039, C. C. Q.)

A tutor *ad hoc* whose powers extend only to the matters to be discussed must be given to a minor, if during the tutorship the minor happen to have any interests to discuss judicially with his tutor. (Art. 269, C. C. Q.), *v. g.*, if the tutor requests a limitation of the legal hypothec registered on all the immoveables of the tutor, when the assets of the tutor evidently exceed the assets of the pupil under Art. 2924, C. C. Q., based upon the Art of 1839 (1 Viet., c. 30 ss. 25 ff. C. S. L. C., c. 37, ss. 25-36) reading as follows :

Interdicted person for imbecility insanity, or madness. The curator to such person has over such person and his property all the powers of a tutor over the person and property of a minor. (Art. 313, C. C. Q.)

Interdicted person for prodigality. The powers of his curator extends only to his property. (*Ibidem.*)

The curator may demand the final partition of the moveable and the provisional division of the immoveables of the succession. (Art. 691, C. C. Q.)

Any judge, by whom any appointment of a tutor or curator is made by and with the advice and consent of the relatives and friends assembled for the election of such tutor and curator, may restrict the hypothec resulting from such appointment to certain specific real estate of such tutor or curator in which case, all other real estate of curator shall be exonerated from such hypothec; and the tutor or curator or subrogate tutor shall cause to be registered, hypothecs on such specified real estate only. (Cf. 2111 2112 N. C.)

Semi-interdicted persons. If the powers of the judicial adviser be not not defined by the judgment, the person to whom he is appointed is prohibited from pleading without the assistance of such adviser. (Art. 351, C. C. Q.)

The powers of the curator to an absentee extends to acts of administration only. (Art. 91, C. C. Q.) He may sue, but he cannot represent the absentee as a defendant.

The absentee must be called according to Art. 136, C. P. Q.

APPEALS

The appeal to the Court of King's Bench must be taken within two months (Art 1209, C. P. Q.), but exceptionally within fifteen days in the claims under the Worksmen Compensation Act (7212 R. S. Q.) and from the decisions of the Public Utilities Commission (711 R. S. Q.)

A tutor cannot appeal from a judgment until he is authorized by the judge, or the prothonotary, on the advice of a family council. (Art. 306, C. C. Q.)

CIVIL PROCEDURE

The Commissioners of the Superior Court are authorized to receive affidavits to be used before the Supreme Court of Canada and the Exchequer Court. (Can. R. S., c. 139, Art. 91, and c. 140, Art. 59.)

Rules of Practice—Powers of Superior Court, Arts. 73-76 C. P.Q.—of the Exchequer Court of Canada, Can. R. S.C. c., 140, Art. 87 ff., of the Supreme Court of Canada, c., 139, Art. 109.

Place of instituting actions: Art. 91 C. P. Q. ff., for the Admiralty Court, Can. R. S. C., c. 141, Art. 18.

Rules of pleading (Arts. 105-113, C. P. Q.) The courts are bound to know the privileges and immunities of Senate and House of Commons (Can. R. S. C., c. 10, Art. 5), and the orders of the Railway Commissioners of Canada (Can. R. S., c. 37, Art. 31).

600 C. P. Q. The writs of executions are issued in the name of the sovereign. It is different for the writs of the Supreme Court and of the Exchequer Court of Canada. Can. R. S. C., c. 139, Art. 105, c. 140, Art. 73.

Writ of possession, 610 C. P. Q. Cf. under the Expropriation Act (Can. R. S. C., c. 143) Art. 21, and R. S. Q., Art. 7559.

ROMAN JUDGES

1. According to Quintilian, the judges heard with greater satisfaction the voice of the equity than of the law.

2. According to Pliny, they embraced with the greatest energy what they saw confirmed by the argument of the pleader and they had themselves foreseen through the statement as it appeared to them an *Eureka* of their own.

3. They wished to be called and thought the fathers of the pleaders, always sensible to the classical word of Nero in his happiest days: *Quam vellem nescire litteras* ! when obliged to sign a condemnation, even to the humblest litigant, though not in possession of the social rank of Mrs. Goensman, and of her husband, their own colleague. In other words, they were anxious to console even the most guilty as our English courts when saying: Have God mercy on your soul! faithful to the maxim of Titus: *Oportet neminem discedere tristem a principe*.

4. They professed the greatest *modesty* as the Lords of Privy Council, repeating very often: *In my opinion, Arbitror, videtur mihi esse reus*. (I am under the impression that in law . . . wrote the late Honourable Mr. Justice Beaudin).

The judges in our days according to D'Aguesseau are independent and free from all passions. They are glorious or declaring themselves impressed by the epigraph: *Lex imperial* written in the Court of Cassation at Paris.

They tend to apply a substantive justice rather than a system of technicalities. They are appointed in consequence of a special confidence in their loyalty, integrity and ability. Hence the courteous way of *l'haix d'Est-Ange* when rising at the Bar; *Je demande au tribunal la permission de lui rappeler les articles de telle loi.*

JUDGES

1. Circuit Court (Montreal). It may be composed not only of four, but of six judges. (R. S. Q., s. 3135 as amended in 1910 [1 Geo. V., c. 24].)

2. The Court of King's Bench could be composed of eight judges, by the Act of 1891 (54 Vict., c. 22), subject to a proclamation of the Lieutenant-Governor.

REASONS FOR JUDGMENT

Every judgment must contain the cause of action. In contested cases, it must contain a summary statement of the issues of law and of fact raised and decided, the reasons upon which the decision is founded (Arts. 511 and 1215 C. P. Q.)

The reasons for judgment are invited by the Supreme Court of Canada (Rule 6 of 1907) and by the Privy Council (Rule 91 of the Colonial Appeal Rules 1908).

The reasons given the judge, or any of the judges, for or against any judgment pronounced in the causes of the proceedings out of which the appeal arises, shall by such judge or judges be communicated by writing to the registrar and shall by him be transmitted to the Registrar of the Privy Council at the same time when the record is transmitted. The authority for such Rule is granted by the Judicial Committee Act, 1844 (7-8 Vict., c. 69, ss. 10-11)

CERTIORARI

There is no *certiorari* against the proceedings of the Board of Examiners of the Bar, of the Notaries, and different other professions, nor under the Immigration Act (9-10 Ed. VII, Act. 23) nor in the cases provided by Art. 1166 Q. R. S. (License Act).

DOLLARS AND CENTS

The Canadian Law does not know the word *piastres* and *sous* and *à fortiori* the barbarism: *centins*.

DATE of commencement of reign of recent sovereigns.

William IV.....	June 26, 1830.
Victoria.....	June 20, 1837.
Edward VII.....	January 22, 1901.
George V.....	May 6, 1910.

LETTERS

Voltaire said : Sixty years ago the writers subscribed themselves as being their affectionate servants. Subsequently, we became obedient servants. And latter again, we had the honour to be so. He added: *Je plains la postérité, si elle peut aller plus loin.*

The French and English courtesy remained faithful to those forms of respects.

ANNOTATIONS of Civil Code of Quebec

Pérodeau Act respecting successions, 1915 (Art. 621a ff. C. C. Q.) See the French Law of March 9, 1891, amending Acts. 767 and 258 N. C. ; *Revue de Législation et de Jurisprudence*, 1891, pp. 223-242; Dalloz, 1881, *Lois et décrets*, pp. 17-21; Duverger, *Lois et Décrets*, 1891, p. 31.

BREVITY IN PRINTING RECORDS

By deference to such wish, are treated with disfavour the notices or presentation of motion, stenographers' certificates at the end of each deposition and all blanks usual before and after every quotations or extracts. Perhaps could be also considered as a mere duplication a great part of formal judgment of the trial court, when the latter merely copies the declaration, the plea and the answer of the litigant parties as preamble to his impressions as to the evidence.

Duplications ; Duplicates of a contract already fyled by one of the pleaders, when both have fyled a similar one; translations of charge or exhibits presented for the convenience of a mixed jury.

FACTUMS

CLEARNESS

Nothing was as disastrous in a factum as the old use of copying the pleadings in the first chapter of statement. It was a masterpiece of obscurity in presenting in the very beginning which needs the brightest sun, mere conjectures or facts which the pleaders had hoped to prove.

The reader feels disappointed, because he does not know quickly what are the facts really proved.

SHERIFF'S TARIFF

The deposit required at Montreal for *fiat de terris* is \$80 (and no more only \$10).

On *capias*, the plaintiff must pay in addition to the stamp of \$1 another sum of \$10 (and no more only \$10) to transfer the prise to Bordeaux.

SUPERIOR COURT

RULES OF PRACTICE

1. The list of exhibits could be disposed in tabular matter (as at the Exchequer Court) in order to put in special columns the date after the description of each document.

2. The prothonotary requested to prepare a record for a higher court (either for the Review or for the Court of Appeals, the Supreme Court or His Majesty) should put together all the exhibits (without leaving the exhibits fyled in the pleadings separately from those fyled at enquête).

3. All statutes to be quoted could refer to the year of Our Lord (according to the useful example of the Lords of the Privy Council).

4. The mode of citation of the different law reports should be, as much as possible, the mode followed in the Law Reports of Privy Council, when they refer to Canadian Reports.

5. The judges could reserve to their discretionary power the faculty of dispensing with the notice to be given as to petition for the issue of a writ of *habeas corpus*.

ARBITRATIONS

Fire Insurance claims, see Act, 7031, R. S. Q.

The Montreal Corn Exchange Association has by its charter a committee of review of its arbitration, and a certain right to an execution of its awards on a petition to a judge of the Superior Court V. Act of 1863 (26 Vict., c. 21).

In railway expropriations, R. S. Q. Arts. 6538 ff., and Can. R. S., 1906, c. 37, s. 209 which grants an appeal either to the Superior Court or to the Court of King's Bench.

Other expropriations : Can. R. S., 1906, c., 113; for water powers, R. S. Q., 7287 ff.; by cities and towns, Arts. 5790-5799; or schools, 2751 ff., for cemeteries, 1419 and the Act of 1911 (1 Geo. V., 36).

SEQUESTRATOR

Under 973 C. P. Q., for railways subsidized by the province Acts, 6663 ff., R. S. Q.

QUEBEC REPORTS

Amongst the expressions favoured by the Quebec Reports are the following :

1. *Action rejetée* and *demande repoussée* instead of *action* or *demande renvoyée*. *Idem* for the dismissal of the appeal.

2. *Commandes* instead of *ordres* for the delivery of goods.

3. The unpleasant adjective *the said* is not uselessly repeated when to be applied to the plaintiff, the defendant, the *mis-en-cause*, the *tiers-saisi*, etc.

There is a very discrete use of italics in the reasons for judgment by respect for the intelligence of the readers in the discovery of the words or ideas which could be judged important. Perhaps one could doubt as to the propriety of always putting italics for the titles of works so frequently repeated, such as Halsbury's Law of England, American and English Encyclopædia.

COUNCIL OF THE BAR

The Council of the Bar of the Province has made a general revision of the by-laws of the Bar, so as to give the tariff of the advocates the degree of purity of form secured by the tariff of the prothonotary (such as published in the statutes of 1916).

A great need of a new revision of the Quebec Revised Statutes, 1909, is felt. There was a considerable alluvion of amendments. Some gaps occurred, for instance in connection with the Quebec Sunday Law declared *ultra vires*.

Indeed, it would be a fair occasion to get rid of a lot of imperfect expressions remained by *lapsus calami* in the Code of Civil Procedure (1897).

The generality of the laws prefer the words: *interroger*, *contre-interroger* and *ré-interroger* to *examiner*, *transquestionner* and *ré-examiner* the witnesses.

The Federal Laws always carefully translate the words: *termes* by *sessions* in connection with the courts : in as much by *en tant que* or *autant que*, not *en autant que*, in addition to by *outre*, and not *en outre de* the Criminal Court by *la Cour d'assises* and not *la Cour criminelle*, exhibits by *pièces justificatives*, repeal an Act by *abroger une loi*—pass a resolution by *adopter une proposition ou une décision*, take an action or an appeal by *intenter une action*, *former une demande*, *interjeter un appel*, patents by *brevets d'invention*, not *patentes*, auditors by *vérificateurs*; sworn claims by *réclamations attestées sous serment*, not *assermentées*, the criers by *huissiers audienciers*.

RESPECT
of the
JUDGES

As to the reasons such as mentioned by our own actual judges, see *Rex v Fournier* (Q. R. 37 S. C. 68, and 20 K. B. 221) and *Tourangeau v Martin*, 1916.

Vous ne devez pas moins de vénération à vos juges, said D'Aguesseau, qu'à la justice elle-même. La justice, said Pelisson in his plea for Fourquet, est la mère de l'ordre, de la tranquillité et du repos, la protectrice des lois, la correctrice des mœurs (art. 50, C. P.) avec une sagesse presque divine.

MODESTY of Papinian

Errare humanum, est, perseverare autem diabolicum, fateri vero prope divinum, Papinian said: *Nobis aliquando placebat, sed in contrarium me vocat Sabini sententia.*

MOTOR VEHICLES

Speed when meeting another vehicle shall be reduced to sixteen miles an hour. (7 Geo. V, c. 21 art. 19.)

Strict rules are given for motor vehicle passing a street car. (*Ibidem*, Art. 20.)

Keep to the right of the road wherever possible. (Art. 1420e, R. S., as added by 7 Geo. V, c. 21, art. 21.)

All municipal by-laws that pretend to deal with the regulation of the speed of motor vehicles, the imposition of tax, license, or permit, or the fines are null. (*Ibid*, Art. 1423 as amended in 1916, 7 Geo. V, c. 21.)

ADMISSIONS

An authentic deed may be contradicted or varied by a judicial admission without any possible objection taken from art. 1231, C. C. (*Resther v. Matte*, 13 K. B. 198).

VERBAL EVIDENCE

The doctrine of Langelier as explained in his treatise *On Evidence*, Nos. 191-192) to the effect that the reasons of the prohibition of the verbal evidence is a matter of public order which could not be waived by the absence of any objection of the parties is over-ruled by the jurisprudence of the Supreme Court of Canada.

PLEADING

Quum est in demonstratione voce paululum attenuata, crebris intervallis et divisionibus uti oportet, ut in in ipsa pronuntiatione eas res, quas demonstrabimus, inserere, atque intersecare videamur in animis auditorum.

An example of the wisdom of that Roman precept may perhaps be shown in the style of the petitions for appeal by special leave to His Majesty where every allegation begins by the same (apparently slow on purpose) cliché of the words: Your petitioner further submits that, etc.

ENUMERATION

The figure of enumeration (recapitulation) is not only advisable at the end of the cases (*précis*) for the Privy Council, by virtue of the Judicial Committee Rules, 1908, but also passim in the factums, either in the statement, or in the brief of argument, as well as in the plea at the Bar.

A masterpice may be recalled (from the plea *pro Milone* proposed to the admiration of the Canadian youth by the Bar of Quebec in the program of the examinations for admission to the study of Law:

Videor adhuc constare omnia, iudices: Miloni etiam utile casso Clodium vivere; illi ad ea quae concupierat, optatissimum interitum Milonis: odium fuisse illi in hunc acerbissimum; in illum hujus nullum; consuetudinem illius perpetuam in vi inferenda; hujus tantum in repellenda.

SUPERIOR COURT

(Art. 18, C. P.)

The Superior Court has full power and jurisdiction, and is competent to hear and determine all complaints, suits, and demands of what nature soever, which might have been heard and determined in the courts of *prévôté*, justice royale, intendant or Superior Council, under the government of the province prior to the year 1759, touching rights, remedies and actions of a civil nature, and which are not specially provided for by the laws and ordinances of Lower Canada made since the said year 1759; and the said Superior Court is competent to award and grant all such remedies, as may be necessary for effectuating and carrying into execution the judgment thereof, made in the premises aforesaid and which to law and justice appertain.

But nothing in this Act (31 Geo. III, c. 6, art. 8 and 12 Vict. c. 38, art. 8) shall extend to the said Superior

Court any powers of a legislative nature, possessed by any court prior to the conquest (C. R. S. L. C., c. 78, art. 6).

As to the superintending and reforming powers of the Superiore Court over all courts and magistrates (by way of writs of prohibition, *certiorari*, *habeas corpus*, etc.) and corporate bodies (Art. 133 §2, M. C., 1916), under Art. 50, C. P., 3085, R. S., 1909 repeating the Art of 1819, 12 Vict., c. 38, art. 7; see amongst others the following authorities:

City of Montreal v. Beauvais (early closing by-law, 12 Can. S. C. R.); — *Pepin v. Pepin*, Q. R. [1905] 11 K. B. 371.

LOST NOTES

In case of suit on lost notes the security required by art. 157 (Can. R. S., c. 119) being given in commercial matter is not bound to justify his solvency on immoveable property, and in case he so justifies on such property, he is not bound to produce his tiles (18 K. B. 512).

BAR ACT

In the case of vacancies among officers of the General Council, the actual Bar Act and its bylaws do not provide an economical way to solve the difficulty of an expensive convocation of special meeting for the purpose of an election of a *Batonnier* general who would enjoy the honour for a few weeks. The Bar Act of 1849 had an excellent article (17) as follows:

In case of the absence, illness or death for appointment as a judge, of any officer of any councils, his place shall be filled up as follows,—that of the *Batonnier* by the oldest member of the council reckoning from the date of his admission to the profession, and that of any other officer to be chosen temporarily by the council;—and in case of the absence, illness or death of any of the members, the council may fill up their places in the same manner by the same number of other members to be chosen from among the members of the section.

INTERPRETATION of the

Code of Procedure

Art. 3. See its source in 12 Vict. (1849), c. 38, Art. 113.

Art. 4. See its origin in 20 Vict. (1857), c. 44, Art. 149.

WRITS

1. All writs issued from the Superior Court run (since 1849, [12 Vict., c. 38, art. 19] in the name of His Majesty and are signed by the prothonotary for the district in which they issue and they are not tested in the name of any judge, but the words "in witness whereof we have caused the seal of our said court to be hereunto affixed" are instead of such teste. But such teste is a form used in the Exchequer Court of Canada and in the Supreme Court.

2. Every such writ or process in the province of Quebec may be either in the English language or in the French language. (B. N. A. Act, 1867, art. 133 following the Act of 1849, 12 Vict., c. 38, art. 19.)

3. They are directed to and executed by sheriffs or bailiffs in conformity with (Art. 116, C. P. and sometimes to the coroner, (Art. 35, C. P.) or even to the prothonotary or his deputy (36 C. P.)

The judge or prothonotary may (since 1902), upon verbal application and without costs, authorize the service of a writ or of any other proceeding, except in municipalities in which a bailiff resides, to be made by any literate person who is over twenty-one years. (Art. 121, C. P.) The prothonotary of each district shall supply free of charge, (since 1903) to any member of the Bar qualified to practise, making a demand therefor, a list of the bailiffs entitled to practise therein. (Art. 156, R. S. Q., 1909.) There is not however any provincial centralisation of such lists of bailiffs of each district. The secretaries of the Bar are invited by the General Council of the Bar of Quebec by *subpoena* to transmit such lists to the general secretary of the Bar of the Province, when the list of the lawyers is transmitted for the general roll (under Art. 155, R. S., 1909).

IN REVIEW

The Court of Review wishes that the new rules of March 26, 1917 be read attentively. As the rules for factums are but a repetition of rules in force since December 1915, the Court has the intention of requiring their fulfilment as effectually as in the Supreme Court of Canada.

1. A concise of facts (such as proved).
2. An assignment of the errors alleged in the judgment.
3. A brief of argument or of the points for argument stating the contentions in full as some sentences, not mere words are headings of chapters of a novel.

I. STATEMENT

1. The statement must be complete. *Modica facti differentia magnam inducit juris diversitatem*. If some circumstance is harmful, it may however be postponed to the brief of argument in order to present it with its refutation.

2. It must be clear, luce clarius, not only *ut intelligere possint, sed ut non intelligere non possint iudices*. Every obscurity of the statement is fatal to the whole balance of the factum or case (*précis*).

3. It must be concise. (Caesar is the model proposed to the admiration of the candidates for the admission to the study of Law by the Bar of the Province.) No useless words. No indifferent circumstances. The brevity is not however a question of material length. If the statement is pleasing (*viz.* the plea of Target for La Rosière de Salency), it may be seem very short. An excellent way to appear short is to divide the statement. Such strategy is exceedingly bright, when the issues raised in appeal are put forward at the end of the classical preamble of ten used in London and Washington. For instance the statement may then proceed as follows:

In reference to the first point or issue, the facts are as follows:

In reference to the second point, etc.

II. ASSIGNMENT

OF

ERRORS

1. As much as possible the points must appear ecclectic.

Non numerandi, sed ponderandi.

2. Avoid any unnecessary multiplication of heads over three.

Enumerationem utimur, quum dicimus numero, quot de rebus dicturi sumus.

Eam plus quam trium partium numero esse non oportet, nam et periculosum est ne quando plus minusve dicamus et suspicionem offert auditori meditationis et artificii, quae res fidem abrogat orationi.

Expositio est, quum res, quibus de rebus acturi sumus, exponimus breviter et absolute.

3. The assignment of errors must be indented as a motto.

1. The essential brevity of that epigraphic part excludes generally any argumentative remark and any source of argument, such as precedents.

III. BRIEF OF ARGUMENT

It is often necessary at the Bar to change the parts of our oral pleading, when the nature of the case requires it (v. g. when we must defer to an invitation of the Bench), when the art itself suggests to modify the plan recommended by the art itself. *His commutationibus et translationibus partium saepe utie necess est, quum ipsa res artificiosam dispositionem artificiose commutare cogit.* But in factums we are invited to follow in the Court of Review the division in two parts (or three for the appellant's part) governed by the Rules of Practice of March 1917 (absolutely similar to the Rules of the Supreme Court of Canada, 1906).

As to the brief of argument, the Roman theory is the following:

In confirmatione et confutatione argumentationum dispositiones hujusmodi convenit habere: firmissimas argumentationes in primis et postremis causae partibus collocare; mediocres, et neque inutiles ad dicendum, nequam, si separatim ac singulae dicantur infirmæ sint, cum cæteris junctæ, firmæ et probabiles stant, interponi et in medio collocari oportet.

Nam statim res narrata expectat animus auditoris, ex qua res causa confirmari possit. Quapropter continuo firmam aliquam oportet inferre argumentationem. Et quoniam nuperius dictum facile memoriæ tradatur, utile est, quum dicere hesinamus, recentem aliquam relinquere in animis auditorum bene firmam argumentationem. Haec dispositionem locorum, facillime in dicendo, sicut illud in pugnando, parcar potest victoribus.

Such disposition is recommended in the *Rhetorica ad Herennium* (X, 91), in the *Education of the Orator* (II, c. 77) and Quintilian (V, c. 12) gives to that strategy the little "homeric", because Nestor distributed his army in such an order. (*Iliad.*, c. IV, v. 297).

Ex re non difficile est invenire quid sit causae adjumento: difficilimum vero est, inventam expolire et expedite pronunciare. Hoc enim res facit, ut neque diutius quam satis est, in eisdem locis commoremur neque eodem identidem revolvamur, neque inchoatam argumentationem relinquamus, neque incommode ad aliam deinceps transeamus.

Itaque hac ratione et ipsi meminisse posterimus, quid quoque loco dixerimus, et auditor quum totius causae tum unius cujusque argumentationis distributionem percipere et meminisse poterit.

DELAY GRANTED BY A COURT

The power granted to the Courts to impose to a creditor partial payments in case of excessive interest has been exercised (under Art. 1149, C. C. as amended in 1906 by 6 Ed. VII, c. 10) in *Gilman v. Rodden* (23 R. L. n. s. 178), even in the absence of any greater power under the Money

Lenders' Art. (Can. R. S. c. 122). The original consideration of a loan (\$3,000) had become a claim of over \$6,000. The Court ordered an immediate payment of \$1500 and the balance \$20 per month.

KEEP YOUR HORSE

A strap is not sufficient to replace a competent guardian especially if a driver is absent during twenty minutes in Montreal. (By-Law No. 50, art. 3, section 5; 23 R. L. n. s. 171.)

AUTOMOBILES

Authorities on the owner's liabilities: Art. 1054, C. C.; - R. S. Q. Art. 1106;—3 Geo. V [1912], c. 19; -6 Geo. V [1916], c. 16; -McCabe *v.* Allan [1911] Q. R. 39 S. C. 29; - Chong *v.* Fortier [1911] Q. R. 45 S.C. 365.

ABSENTEE

After his notification by advertisement to appear, the rule as to notification at the office of the prothonotary under Art. 85, C. P. is explained as to its limits by its origin in 14, 15 Vic., c. 60 art. 3 reproduced in C. S. L. C., c. 83, art. 62.

It does not allow any such service as to faits et articles, (as held by our Court of Appeals, in conformity with the Ordinance of 1667 which distinctly forbids any service of any rule for faits et articles at any mere domicile of election.

DILATORY EXCEPTION

It is open to a defendant accused of a delict for his recourse in contribution against the co-delinquents. Fuzier-Herman, C. N. art. 1241 No. 2 and Supplement under art. 1224, No. 2. Dalloz, 1891, 1513, 561 City of Mtl. *v.* City of Ste. Cunegonde 32 Can. S. C. R. 135 and Mtl. Gaz Co *v.* St. Laurent, 26 Can. S. C. R. 176,

EXEMPT from Seizure

The deposit \$200 of made by a candidate to a Provincial election (R. S. Q. art. 296) or by a candidate for alderman at Montreal (62 Vict. c. 58).

LIST OF EXHIBITS

The list of exhibits must give the mark of quotation, the description (not *le*, not *la* description), and the date. At the Exchequer Court of Canada, in the records for the Supreme Court of Canada, those details are given in the first columns.

HISTORY of the BAR

It is not without the greatest utility. Que l'histoire, sans l'Agresseur, donne à l'avocat une vieillesse anticipée.

Per inperitiam, qui minus: usque rei de rebus ante positis, culpa refectione possunt, per imprudentiam facile hinc deducuntur, et traduntur un faux pas), al., qui sciunt, quid etis acciderit, tamen ex aliorum eventu suis rationibus possunt providere.

FIGURES of LANGUAGE

They are essential in the judicial style, and perhaps before all, the inversions of sentences and the ellipses (not the suspension with leaders, which is considered as a passionate figure, specially if the case has nothing of a bright case, to which is required something, *vel egregie honestum* (for instance the innocence of Roscius) *vel egregie turpe* (x. g. the offences of a Verrès).

Omne genus orationis et grave et mediocre et attenuatum (le sublime, le tempéré et le simple) dignitate adficiunt exornationes, quæ si raræ disponuntur, distinctam, sicuti coloribus; si crebræ collocabuntur, oblitam (couvert de fard) reddunt orationem.

MAÎTRE.

In France, the title of Maître is given by the courts addressing the barristers, but not by the members of the Bar to their confrères (who are called Monsieur). Such is one of the rules (No. 115) in Mollot, la *Profession d'avocat*.

RULES of PRACTICE

(In Superior Court)

Hints of Amendments

1. The conclusions of all claims and motions shall be separated in numbered paragraphs (as in the Exchequer Court of Canada and in the Supreme Court of Great Britain).

2. Every petition or motion shall contain a reference to the section of the code or Statute to be applied, and always refer to a statute by giving the year of Our Lord in which it was passed.

3. Every document filed in a tongue other than in English, in French or in Latin shall be accompagnied by a translated copy into French or in English.

4. All lists of exhibits shall mention their contents in special columns, viz. one for the mark of quotation, one for its description (sa nature et non sa description) and another one for its date (as in the Exchequer Court of Canada and in all the divisions of the Supreme Court of England).

5. When a record has to be transmitted en délibéré, all the exhibits and the lists of exhibits shall be grouped together.

6. The abbreviations, if any are used, should avoid all possible confusion, viz. between R. de J. and R. J. [*Revue de jurisprudence* and *Judicial Reports*].

FACTUMS

The statements of claim (Art. 105, C. P.) must contain only facts and conclusions.

The theory of the enthemema-syllogism, the major proposition of which is not expressed, remains in the mind

(from the Greek, *en, dans,* and *thumos*, esprit)—is always much employed also in the *tactums*. We must prefer that form to the syllogism every time the major proposition can be easily restored, *parce que*, said Port Royal, la nature de l'esprit humain est d'aimer mieux qu'on lui laisse quelque chose à suppléer que si l'on s'imaginait qu'il eût besoin d'être instruit en tout. Ainsi cette suppression flatte la vanité de ceux à qui l'on parle en se remettant de quelque chose à leur intelligence; et en abrégeant le discours, elle le rend plus fort et plus vif.

FACTS v. DOCTRINE EQUITY v. LAW

Dupin (thirty years Attorney-General at the Court of Cassation) said: "When I was a beginner at the Bar, I used to prepare a lot of quotations from authors, precedents and the points of law. Afterwards I remarked that the leaders and senior members of the Bar held a different policy. I gave a greater attention to the preparation of the facts. I saw that our models tried to fight the law by the equity and to present their clients as the most perfect examples of honesty".

CAPITALS

1. Two capitals are not needed in a compound title in the modern use, as:

Major-general
Chief-justice Lemoine
Ex-president Little,
Vice-president Little.

2. When the title of an official follows his name, the capital need not now be used in good book-word for the first letter in that title.—Such is the followed in the Canadian Blue Book X., ex-senator, X. ex-chief-justice.

ROMAN PLEADING

1. The lawyer for the defendant (except when he must speak the first in the particular cases ruled by the maxim *Reus excipiendo fit actor*, must in beginning pay a tribute of respect to the skilfulness and even the eloquence of his opponent.

2. He shall not however neglect to promise to be shorter than his adversary. Sometimes and even often he can suppress the whole statement of facts, specially in appeal. Don't start the statements without seeming to ask the permission: *Permettez-moi de rappeler sommairement les fait*

3. Don't fear to admit undisputable facts as Berryer in his defence for Prince Louis-Bonaparte. *Non advocati cœlum, sed pæne testis fidem adhibeamus.*

4. Don't fear to appear absolutely personal in your style. Cochin called *un mur de séparation* a distinction between *acquets* and *conquets* of community as to property.

5. Show a complete loyalty in stating the objections of your adversary, but don't accumulate them yourself, unless they are to be impeached together, for instance the whole crowd of witnesses examined by virtue of a *commission rogatoire*.

6. Avoid the affirmative tone. Never say: No Court can decide the contrary, but rather multiply even in the most elementary statement of rules. *A notre avis, trois éléments constituent tel droit. A cette objection, nous répondrons ensuite, et peut-être avec quelque avantage.*

HYPHEN

It is required in French :

1. To unite as in a compound noun all the christian names of a person.

Berryer (Pierre Nicholas), defensor of Ney (1757-1841).

Berryer (Antoine-Pierre), defensor of Cambronne, Montalambert, Lamennais, Prince Louis Bonaparte (1788-1868).

Lafontaine (Sir Louis-Hippolyte).

Belleau (Sir Fortunat), first Governor of Quebec in 1867.

Jetté (Sir Louis).

2. To unite the names of the geographical places : St-Vincent-de Paul, St-Paul-l'Ermite, Ste-Anne-de-Beaupré, Sault-au-Récollet, St-Louis-de-France, St-Grégoire-le-Thaumaturge.

EAUTOTOLOGY

It is useless to say : Etc. ; Etc. It suffices to say : Etc. The leaders to denote omissions should not be indefinite. Three suffice to show the suppression of part of a sentence and five to represent a whole [p. 26] 10.

PRECEDENTS

Never put the reference before the style of cause; 20 K. B. 20 A. v. B : but A. v. B., 20 K. B. 90.

Never use useless transition; reported in 20 K. B. 20, but only A. v. B. (20 K. B. 20).

9. Add the year of the publication of the volume; *Vaudry v. Quebec Ry. L. H. & P. Co.* [1916] 53 Can. S. C. R. 53.

The Quebec Reports favour the mention of the year of Our Lord, but prefer to give as in France the year of the decision, not the year of its publication.

! The generality of our laws does not favour the words; *examen, transquestions, exhibits* and *informalités*.

FACTUMS

The eternal laws of the preamble comprise among others the main following one:

Dociles auditores faciemus si aperte et breviter summam causam exponimus, hoc est, in quo consistat controversia.

The cliché in use in the cases (precis) for the Privy Council is:

The issues raised in this appeal are two or three:

1.
2.
3.

The sources of the rules of the preamble are:

Aristote: *Artis rhetoricae*, lib. I. c. xiv, et *Rhetorica ad Alexandrum*, c. xxx.

Cicero: *Ad Herennium*, lib. I, c. iv to vi, ;—*De Inventione*, lib. I, c. xv to xviii.—*De Oratore*, lib. I, c. 77, 80.

Quintilian: *De Institutione oratoria*, lib. IV, c. 1.

I. STATEMENT

That first part of the factum is subject to the rules contained in the following source:

Aristote: *Artis rhetoricae*, lib. III, c. xvi; -- *Rhetorica ad Alexandrum*, c. xxxi.

Cicero: *Ad Herennium*, lib. I, c. viii-iv. -- *De inventione*, lib. I, c. xix to xxi.

Quintilian: *De Institutione oratoria*, lib. IV, c. .

II. ASSIGNMENT OF ERRORS

The rules of the division are contained in the following treasures of the lawyers:

Cicero, *Ad Herennium*, lib. I, c. x. -- *De Inventione*, lib. I, c. xxii-xxiii.

Quintilian: *De Institutione oratoria*, lib. IV, c. iv.

III. BRIEF OF ARGUMENT

The confirmation is ruled by the precepts of the following organists of the Eloquence:

Aristote: *Artis rhetoricae*, lib. IV, c. xvii. -- *Rhetorica ad Alexandrum*, c. xxxiii. -- *Analyticorum priorum et posteriorum lib.* -- *Topicorum liber*.

Cicero: *Ad Herennium*, lib. I, c. x to xvii et lib. II. -- *De Inventione*, lib. I, c. xxiv to xli; lib. II, c. iv to xvi. *Topica*, *De Oratore*, lib. II, c. lxxii-lxxxi.

Quintilian, *De Institutione oratoria*, lib. V, c. i to xxi.

Confutation:

Aristote: *Artis rhetoricae*, lib I, c. xvii. *Rhetorica ad Alexandrum*, c. xxxiv. -- *Analyticorum priorum et posteriorum lib.* *Topicorum lib.*

Cicero: *De Inventione*, lib. I, c. xlii to li. -- lib. II, c. lxxvi. -- *Topica*. -- *De Inventione* Nos 72, 81.

Quintilian, *De Institutione oratoria*, lib. V, c. xiii-xiv.

* *

The number of seven persons mentioned in the Civil Code of 1866 then necessary to obtain a charter is now antediluvian. Art. 1891. C. C. Q. should be amended in replacing the figure seven by the word 'five' in order to appear in harmony with our Federal and Provincial Companies Acts. (Can. R. S., c. 79, art. 4 and Q. R. S., art. 6007.)

CICERO

Liouville, son of the bâtonnier of Paris (De la Profession d'avocat 1864) says: One must read every one of his works on the art of speaking: the *Rhetoric to Herennius*, the *Invention*, the *Orator*, *Brutus*. On the *Best Eloquence*, *Oratorial Partitions*, *Topics*. *Ille se profectis se sciat, cui Cicero valde placebit.*

CAPITALS

Articles. The general tendency of all tongues to reduce the capital letters and italic seem to use the lower case, and Roman letters for the article in the names of the corporations and the newspapers. Example.

The respondent Cadieux in his contracts with the [not The] *Moniteur* *Gaz* *Can.* ;—we read in the *Gazette*, dans *L'Avenir*, dans le *Journal de Presse*, *L'Éclair*.

Il est prévu et statué (not pourvu) par le [not Le] *Barreau de la province de Québec* that every lawyer is entitled to a list of the interdicted actions of his district without charge from the prothonotary.

THE PERIOD

The period is now omitted at the termination of displayed lines in title pages in running title (practice not yet followed in London by the Law Reports), and subheadings, and generally at the end of all lines that are followed by blank space, (for instance, after the titles of a subheading.

Lists of names set in columns (for instance, the two lists of six French jurors and six English jurors in our *procès-verbal* of jury trial), and the endings of paragraphs of index matter are without the period. The period is not needed there to indicate the end of the sentence.

DECLARATIONS

1. The title, being put in the middle, does not need a period.
2. As much as possible, don't begin every paragraph by the repetition of the word 'that' to be reserved for the petitions.
3. The Dictionary proposed to the example of the Judiciary by the Federal Authorities is the Imperial Dictionary by Order in Council. Honourable, not Honorable is the spelling preferred, contrarily to the American use as to all words ending by the suffix *or*.)
4. Say *le* paragraphe 4, not *4ème*, etc.

DETAILS

1. The capital letters are out of favour. It is not in conformity with the best usages of the day to write : Plaintiff, Defendant, but the plaintiff, the defendant, etc.
2. The abbreviations are not respectful : 3 p.m. *trois heures du soir*, not *matre*, not *Mtre*.
3. The commercial typewriters in use are not strictly in harmony with the best judicial uses in force throughout the whole British Empire and all the other British countries, as to the size of the face of the types.

The Quebec judges when rendering their reasons for judgment have such typewriters of the standard required. In the mean while, Chief Justice Lebel has expressed the wish that the printed forms of the subpoenas and other instruments issued by the Clerk's Office should be in larger type than now.

1. Chief Justice Lebeuf favours the conciseness of Caesar. The subpoenas are in short forms as in England. They erased the words: *Ce à quoi vous devez vous conformer aux peines de droit.*

DISCIPLINE of JEST

Parcet et amicitias, et dignitatibus, vitabit insanabiles contumelias, tantummodo adversarios figet nec eos tamen semper, nec omnes, nec omni modo, nec in calamitatem, ne inhumanum, nec in facinus, ne odii locum risus occupet.

DECLARATIONS

1. *Facillime auditor [the Court] discit, et quid agatur, intelligit, si sequer prudentiam ejus impediatur confusio parium, nec memoriam multitudinē.*

The conclusion of the numbered paragraphs is avoided if the very first one presents exclusively the qualities of the parties. For instance, the plaintiff is executor of Mr. X, deceased, under a will of such a date. The defendant is tutor of the minor children of Y, deceased, under a will of such a date.

(In England, the pleadings do not mention any mark of quotation on the pleadings.)

Classify the facts, as much as possible, in their chronological order, and distinguish the faults imputed under Art. 1053 C. C. Q. from the allegation in which is treated the extent of the damages. The particulars should be grouped under the title: Particulars, to facilitate their tabular addition.

Moral correction of the pleader. *Illud me sollicitare solet, non tam ut proximis causis, elaborare soleo, quam ut ne quid obsim; multo est turpius oratori nocuisse videri causæ, quam non profuisse.*

Never praise too much the client. *Videndum est ne quos beneficia diligi colemus, eorum laudem atque gloriam, cui maxime invideri solet, nimis efferre videatur.*

How can the advocate present favourably his client? *Horum exprimere mores oratione, justos (fearing even to be suspected of violating the maxim: Summum jus, summa injuria), integros, religiosos, timidos [circospects], perferentes injuriarum murum quidem valet; et hoc tantam habet vim, ut est suaviter et cum sensu tractatum, ut sæpe plus quam causa valet.*

Parenthesis. It is an element of conciseness; The contract (clause 6) provided; . . . rather than: The contract provided by or in the clause 6.

X. left six children (A. B. C. D. E. and F.), rather than six children, to wit: A. B. etc.

STATEMENT

Narratio est rerum (historical facts, not of conjectures in the pleadings, nor of facts which a pleader undertook to prove, but not proved) *explicatio, et quædam quasi sedes ac fundamentum constituendæ fidei. Ideo et sunt in ea servanda maxime, quæ etiam in reliquis fere licendi partibus; quæ partim sunt necessaria, partim adsumpta ad ornandum. Nam ut dilucide probabiliterque narremus, necessarium est;* [The references to the pages and lines of the printed appendices should be as numerous as possible] *sed adsumemus etiam suavitatem.* Two details, contribute to the elegance of a factum: one is the careful multiplication of the parentheses for details such as the dates of the judgments, the names of judges composing a court,—and the other, more specially perhaps for the French language is the use of the figures consisting of the inversion, and of the ellipsis such as at the end of a statement to mention *obiter* the last stages of a statement:

Le 29 janvier 1915, exécution du jugement; le 2 février 1916, inscription en revision; le 8 désistement de l'inscription en revision et appel à la Cour du banc du roi].

Sæpissime in narratione laudatur brevitās.

Probabilis est, si personis, si temporibus, si locis ea, qua narrabuntur, consentiant, si cujusque facti et eventi causa ponatur; si testata dici videbuntur, si cum hominum opinione, auctoritate, si cum lege, cum more, cum religione conjuncta, si probitas narrantis significabitur. Suavis autem narratio est, quæ habet admirationes, expectationes, exitus inopitos.

Omnia veniebant Antonio in mentem; eaque suo quaque loco, ubi plurimum proficere et valere possent; ut ab imperatore equites, pediles, levis armatura, sic in maxime orationis partibus collocabuntur.

PREAMBLE

Intelligenter ut audiamur et attente, a rebus ipsis ordiendum est (i. e. the dispositif of the judgment appealed from, if we are in appeal; or the conclusion of the statement of claim, if we appear in a trial court).

Sed, facillimè auditor discit, et quid agatur intelligit, si complectare a principio, genus naturamque causæ, si definias, si divides, si neque prudentiam ejus impediās confusione partium nec memoriam multitudinis.

Those remarks justify the opportunity of the method scrupulously followed by both parties at the Privy Council in their respective cases (*precis*) which are presumed to be read even before the record of proceedings, which in the binding is put at the last end.

The counsels always raise before the statement a concise list in numbered paragraphs (rarely exceeding three of the issues raised in that appeal), presented with the typographical clearness resulting from the *motio indention*.

FIAT

Quite often the style of cause in the sheriff's notices of sales in the *Quebec Gazette*, and the local papers mention a bureau-chef for a plaintiff or defendant company. Where comes from that lapsus calami? From the fiat for the writ summons. Those expressions syphyzize the writ, the fiat for order for faits et articles, that order, the fiat for writ of execution, the writ de bonis, the writ de terris, the writ of saisie-arrêt after judgment, the ordinance under 590, C. P. Q., the minutes of seizure, the notices of sales and the deed of sale of the sheriff

• The Code of Procedure. The Code of procedure is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic.

CADASTRAL LOTS

C. P., Art. 121. If the demand relates to a lot or part of a lot situated in a division where the official plan and book of reference are in force, it must be described in accordance with the provisions of Article 2168 of the Civil Code. As to the best way to obey such directions, see 3 R. L. n. s. 179-182.

LASTS ENGAGE

• The Code of Procedure. The Code of procedure is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic.

PUBLICITY OF CIVIL STATES

• The Code of Procedure. The Code of procedure is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic. It is a code of procedure for the courts of the Republic.

A trader cannot easily discover whether a lady is really widow or whether she is really only whether she is common as to property or whether she is really only.

The continued provision towards the establishment in Quebec of a central office of information (more complete in England since 1846 in the Somerset House by the Succession Duties Act which requires from every registrar a monthly statistic of every will marriage contract).

In France, and Belgium, there is a mention of the existence of marriage contract in the certificate of marriage since 1850 and the marriage is noted in France in margin of the acts of the birth of the child since 1897 as also for one sixth of the whole population of the world by virtue of the decree *Ne Temere* of Pius the Tenth.

Some other countries went further. In Austria, the notice of every death is mentioned also in every act of birth. In Switzerland, since 1871, the civil record has reached the utmost perfection.

In our Province, no step has been taken to contrahse any judgment, though an example be set in France by the law of 1893.

In the mean time, the courts are obliged to apply the secular rule *non ignarus esse debet conditionis eius cum quo contrahit*

QUALITIES

(or a leading counsel)

1. Memoria tanta ut qua secum commentatus esset Hortensius, ea quoque verba eadem redderet, quibus cogitasset. Hoc adiumento illi tanta ex ulabatur, ut singula commentata, et scripta, et nulla in corde, et in adversariorum dicta meminisset.

2. Verbat autem copulata sic, ut nullumquam dupcantius se ad ea verba. Nullum enim poteratur esse diem, quem aut fore diceret, aut esset extra forum: sapissime eodem die utrumque faciebat.

3. Utuleratque minime vulgare genus dicendi: partitiones, apothecias habet, et collectiones (numération, récapitulations) memor et essent dicta contra, quaeque ipse diceret.

4. Erat in verborum splendore elegans, compositione aptus, facultate cogitans, quoque erat cum summo ingenio, tum exercitationibus maximis consuetus. Romae complectebatur memoriae, diu lebat acule, nec praeteribat rem quidquam, quod esset in causa, aut ad confirmandum, aut ad colligendum.

5. Vox clara et suavis, motus et gestus etiam plus artis habebat, quam erat oratori satis.

INTERCHANGE OF FACTS

Each party who has entered an appearance at the Privy Council is entitled to receive for his own use, six copies of the record (Rule 27 of the Judicial Committee Rules, 1908).

The parties after the cases on both sides are lodged, shall exchange cases by handing one another, either at the offices of one of the Agents or in the Registry of the Privy Council, ten copies of their respective cases (Rules 67 of the Judicial Committee Rules, 1908).

BAR ACT

Its source: The Act of 1849 (12 Viet., c. 46).

R. S., 1909, art. 1476. Cf By-Laws of the Quebec Legislative Assembly (1915), art. 196.

1477. For the Judicature, see B. N. A. Act, 1867, arts. 96-101, and two barristers of Quebec must represent the Province in the Supreme Court. (R. S., c. 139).

1481. (Seal) R. S., arts. 5438, 4556, 4559.

1483. By-Laws of the General Council in connection with the incompatibilities, arts. 60-64 in 1917.

1487. Powers of the general council. R. S., arts. 4513, 4577, 4519, 4530.

1490. As soon as the secretary of the Bar of the Province is informed of the election of the officers of the sections (Act, 1576), he must convene the general council.

1481 *a*. Added by 1 Geo. V, c. 29.

4501. Cf. the executory force of the decisions of councils of discipline of other liberal professions, art. 4864 as to notaries and 4969 as to physicians.

4513. The members of the library associations paying only one dollar to the treasurer of the section, the Section receives less in Montreal from the districts of Joliette and St. Hyacinthe than from the Montreal lawyers.

4516. Reason of that notification of the list of officers for the sections: convocation (1490) of the General Council for the election of the Batonnier of the Province.

Some other lists must also be sent to the general council, of all the qualified advocates; for the printing of the roll of advocates the list of the stenographers, the list of the bailiffs and interdicted persons. By-Laws of the Bar of 1917, arts. 55-59.

4517. Bar annual subscription. Cf. 12 Viet. (1849), c. 46, art. 33. By-Laws of the Bar, 1917, art. 68.

4521. On apportionment among sections for a debt of the General Council.

The funds of the General Council may become insufficient from the following sources, —1. \$7 from each lawyer

for the Law reports who supply more than 150 pages a month (and also semestrial and annual tables) for less than the subscription of \$16.50 a year required for three other reviews of fifty pages each month.

2. Some eventual receipts from the admissions for study and practice (only \$30 from each student) to meet the expenses of fourteen examiners at \$100 each, and a few other hundred dollars for joint examiners (priests and other classical teachers) and a nominal fee of \$8 for registration of diploma under art. 4538.

3. A modest part (\$100 only) on the deposits of foreign lawyers admitted to our Bar on deposits reaching more than \$400 and even \$600, for instance from lawyers of Ontario, the greater part remaining the property of the sections;— A fine of \$5 for late payment of the yearly subscription after May 1, in practice, after June 1, ordinary date of publication of the general roll of advocates under art. 4556, R.S.

4522. By-Laws of the Bar, 1917, art. 22. Delay of one month for the notice of students reduced to fifteen days as to candidates for practice, By-Laws of 1917 art. 24.

As to documents to be filed by such candidates, By-laws of 1917, arts. 29, 39.

4525. Posting of the candidates at the library or robing-room of the section, and publication in the *Quebec Gazette* reduced to fifteen days as to candidates for practice, By-laws of 1917, art. 24.

4528. The delay of twenty-days of that article is reduced to ten days by the By-laws of the Bar, 1917, art. 24.

4529. Sources : 12 Viet (1849) c. 46, art. 26 ;—18 Vict. c. 115.

4530. The power of the General Council is also extended in the articles 4517, 4538.

4531. The lawyer must be a British subject and take a political oath. (R. S. art. 606 and Can. R.S. c. 78.)

4534. The lawyer must be a man of scrupulous probity, and if not, he is struck from the roll. R. S., arts. 4542, 4543;—Quintilian, *De institutione oratoria*, Book XII, C. I. *Non posse oratorem esse nisi virum bonum.*)

4536. The diploma signed by the Batonnier and the secretary of the Bar is sufficient without obtaining any commission from the Governor. (12 Viet 1849 c. 46, art. 21.) The right to practise does not exclude the public before the Commissioners, Court (R. S., Art. 4554 and C. P., Arts. 1273-1274.)

4538. That article is no more up to date. The registration of the diploma does not require any new disbursements, because they were required in the deposit made before the examination. (By-Laws of the Bar, 1917, Art. 22.)

The secretary of the Bar (in addition to the notice to the secretary of the section under Art. 4540 as to every admission of student) is bound to notify the treasurer of the section to receive the fees of registration (art. 4450.)

4542. Disqualification of advocates. Can. R. S., C. 138, art. 33;—R. S., 3383, 3334, 5816; —3067, 3094, 3232 4597.

ROMAN MAXIMS

Reprehendo eos, qui quae minime firma sunt, prima ea collocant. (De l'Oratore, II 77.)

On the Privy Council and the Supreme Court of Canada counsel leads on the pleading at the Bar.

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